

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DISTRICT

|                          |   |                           |
|--------------------------|---|---------------------------|
| BETTY ANN BURKS, et al., | ) |                           |
| Plaintiffs,              | ) |                           |
| v.                       | ) | Case No. 2:06-cv-1081-MEF |
| EQUITY GROUP EUFAULA     | ) |                           |
| DIVISION, LLC,           | ) |                           |
| Defendant.               | ) |                           |

**SUBSTITUTION OF FULL DEPOSITION OF GREG MILLS AS SUBSTITUTE  
EXHIBIT 34 TO PLAINTIFFS' SUBMISSION OPPOSING SUMMARY JUDGMENT**

The excerpts from Greg Mills' deposition submitted June 17, 2008 as plaintiffs' Exhibit 34 (Doc. 95-34) are hereby supplemented to include the full deposition of Mr. Mills with the same exhibit number.

Respectfully submitted,

s/Robert L. Wiggins, Jr.  
Robert L. Wiggins, Jr., ASB-1754-G-63R  
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Birmingham, Alabama 35203  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to counsel for all parties by operation of the court's electronic filing system.

This 18th day of June, 2008.

s/Robert L. Wiggins, Jr.  
**OF COUNSEL**

# **Substitute Exhibit 34**

FREEDOM COURT REPORTING

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
MONTGOMERY DIVISION

CASE NUMBER: 2:06-CV-01081-MEF-DRB

BETTY ANN BURKS,

et al.,

Plaintiffs,

vs.

EQUITY GROUP EUFAULA

DIVISION, LLC,

Defendant.

BEFORE:

Cynthia M. Noakes, Commissioner  
and Certified Court Reporter

DEPOSITION TESTIMONY OF  
GREG MILLS

\*\*\*\*\*

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## FREEDOM COURT REPORTING

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 STIPULATION</p> <p>2</p> <p>3 IT IS STIPULATED AND AGREED by and</p> <p>4 between the parties through their respective</p> <p>5 counsel, that the deposition of GREG MILLS may be</p> <p>6 taken before Cynthia M. Noakes, Court Reporter,</p> <p>7 at the Law Offices of WILLIAMS, POTTHOFF,</p> <p>8 WILLIAMS &amp; SMITH, 125 South Orange Avenue,</p> <p>9 Eufaula, Alabama 36027, on the 11th day of June,</p> <p>10 2008.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is not waived, the</p> <p>14 deposition to have the same force and effect as</p> <p>15 if full compliance had been had with all laws and</p> <p>16 rules of Court relating to the taking of</p> <p>17 depositions.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any objections</p> <p>20 to be made by counsel to any questions except as</p> <p>21 to the form or leading questions, and that</p> <p>22 counsel for the parties may make objections and</p> <p>23 assign grounds at the time of the trial, or at</p> | <p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 MR. WIGGINS 12-227</p> <p>4</p> <p>5</p> <p>6 EXHIBITS:</p> <p>7 PLAINTIFFS' PAGE NUMBER:</p> <p>8 Plaintiffs' Exhibit No. 1 47</p> <p>9 Plaintiffs' Exhibit No. 2 48</p> <p>10 Plaintiffs' Exhibit No. 3 22</p> <p>11 Plaintiffs' Exhibit No. 4 50</p> <p>12 Plaintiffs' Exhibit No. 5 55</p> <p>13 Plaintiffs' Exhibit No. 6 61</p> <p>14 Plaintiffs' Exhibit No. 7 67</p> <p>15 Plaintiffs' Exhibit No. 8 69</p> <p>16 Plaintiffs' Exhibit No. 9 84</p> <p>17 Plaintiffs' Exhibit No. 10</p> <p>18 Plaintiffs' Exhibit No. 11 114</p> <p>19 Plaintiffs' Exhibit No. 12 77</p> <p>20 Plaintiffs' Exhibit No. 13 116</p> <p>21 Plaintiffs' Exhibit No. 14 116</p> <p>22 Plaintiffs' Exhibit No. 15 118</p> <p>23 Plaintiffs' Exhibit No. 16 10</p> |
| Page 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Page 5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>1 the time said deposition is offered in evidence,</p> <p>2 or prior thereto.</p> <p>3 IT IS FURTHER STIPULATED AND AGREED</p> <p>4 that the notice of filing of the deposition by</p> <p>5 the Court Reporter is waived.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 *****</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>1 INDEX (continued)</p> <p>2</p> <p>3 Plaintiffs' Exhibit No. 17 11</p> <p>4 Plaintiffs' Exhibit No. 18 11</p> <p>5 Plaintiffs' Exhibit No. 19 11</p> <p>6 Plaintiffs' Exhibit No. 20 11</p> <p>7 Plaintiffs' Exhibit No. 21 17</p> <p>8 Plaintiffs' Exhibit No. 22 30</p> <p>9 (All exhibits were retained</p> <p>10 by Plaintiffs' attorneys)</p> <p>11 Colloquy 227-232</p> <p>12</p> <p>13 Reporter's Certificate 233</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 *****</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>                                                                                                                                                                                                                                                                    |

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## FREEDOM COURT REPORTING

| Page 6                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Page 8                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFFS:</p> <p>4 MR. ROBERT L. WIGGINS, JR.</p> <p>5 MS. CANDIS A. MCGOWAN</p> <p>6 MR. JACOB A. KISER</p> <p>7 WIGGINS, CHILDS,</p> <p>8 QUINN &amp; PANTAZIS, LLC</p> <p>9 ATTORNEYS AT LAW</p> <p>10 The Kress Building</p> <p>11 301 19th Street North</p> <p>12 Birmingham, Alabama 35203</p> <p>13 (205) 314-0500</p> <p>14</p> <p>15 MR. ROBERT J. CAMP</p> <p>16 THE COCHRAN FIRM</p> <p>17 ATTORNEYS AT LAW</p> <p>18 505 North 20th Street</p> <p>19 Suite 825</p> <p>20 Birmingham, Alabama 35203</p> <p>21</p> <p>22 *****</p> <p>23</p>                                                                                                                                                                                                                                                    | <p>1 a.m., GREG MILLS, witness in the above cause, for</p> <p>2 oral examination, whereupon the following</p> <p>3 proceedings were had:</p> <p>4</p> <p>5 GREG MILLS,</p> <p>6 being first duly sworn, was examined and</p> <p>7 testified as follows:</p> <p>8</p> <p>9 THE COURT REPORTER: Usual</p> <p>10 stipulations?</p> <p>11 MR. WIGGINS: Yes.</p> <p>12 MR. ROSENTHAL: Yes, except for reading</p> <p>13 and signing.</p> <p>14 MR. WIGGINS: All right.</p> <p>15 MR. ROSENTHAL: Before we get started</p> <p>16 with the deposition, I just wanted to inform</p> <p>17 Plaintiffs' counsel of the documents which we are</p> <p>18 producing today at their request during a</p> <p>19 conversation on Friday of last week.</p> <p>20 First would be various updated</p> <p>21 organizational charts, some of which -- and</p> <p>22 principally the fresh plant organizational chart</p> <p>23 -- was revised to be updated as of April 3, 2008.</p>                                                                                                                                                                                                                                                                                                            |
| Page 7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Page 9                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>1 APPEARANCES (continued)</p> <p>2</p> <p>3 ON BEHALF OF THE DEFENDANT:</p> <p>4 MR. HOWARD A. ROSENTHAL</p> <p>5 MR. MALCOLM S. GOULD</p> <p>6 PELINO &amp; LENTZ</p> <p>7 ATTORNEYS AT LAW</p> <p>8 One Liberty Place</p> <p>9 1650 Market Street</p> <p>10 Thirty-Second Floor</p> <p>11 Philadelphia, Pennsylvania 19103</p> <p>12 (215) 665-1540</p> <p>13</p> <p>14 *****</p> <p>15</p> <p>16 I, CYNTHIA M. NOAKES, a Certified</p> <p>17 Court Reporter of Eufaula, Alabama, acting as</p> <p>18 Commissioner, certify that on this date, as</p> <p>19 provided by the Alabama Rules of Civil Procedure</p> <p>20 and the foregoing stipulation of counsel, there</p> <p>21 came before me at the Law Offices of WILLIAMS,</p> <p>22 POTTHOFF, WILLIAMS &amp; SMITH, 125 South Orange</p> <p>23 Avenue, Eufaula, Alabama 36027, beginning at 9:10</p> | <p>1 We've also produced the most current Good</p> <p>2 Manufacturing Practices, which was revised as of</p> <p>3 August 18 -- excuse me -- August 21, 2007. And</p> <p>4 that would be 13 pages.</p> <p>5 We're producing the current Employee</p> <p>6 Orientation Manual which updates the version which</p> <p>7 we had previously produced.</p> <p>8 We are producing redacted copies of the 2004</p> <p>9 contract proposals. The top proposal in this</p> <p>10 packet are the proposals which were given by the</p> <p>11 union to the company; and then there were various</p> <p>12 responses by the company to the union, which were</p> <p>13 revisions 1, 2, 3 and 4. They redact everything</p> <p>14 other than proposals relating to work clothing,</p> <p>15 supplies, and wages. These were the written</p> <p>16 documents which were produced during the 2004</p> <p>17 contract negotiations. They don't include,</p> <p>18 obviously, any proposals which were made across</p> <p>19 the table and not in writing.</p> <p>20 We've also produced, likewise, the 2008</p> <p>21 union contract proposals, redacted, to show those</p> <p>22 which relate to supplies, work clothing, and</p> <p>23 wages. And then the company's various responses</p> |

3 (Pages 6 to 9)

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## FREEDOM COURT REPORTING

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1 to them during the course of the negotiations,  
2 which were revisions 1, 2, 3, 4, and 5. And these  
3 copies are for Plaintiffs.

4 MR. WIGGINS: Okay.

5 MS. MCGOWAN: On the union  
6 negotiations, the proposals, you said they don't  
7 include proposals made across the table? Were  
8 they noted on there?

9 MR. ROSENTHAL: No. Those would be  
10 just proposals which were made orally across the  
11 table. There's no written document that reflects  
12 them.

13 MR. WIGGINS: I'm going to mark all  
14 these that he just gave us. All right. I'm going  
15 to mark the updated organizational charts as of  
16 April 3, 2008, that were just produced, as Exhibit  
17 16.

18 (Plaintiffs' Exhibit No. 16 was  
19 marked for identification and a  
20 copy of the same is attached  
21 hereto.)

22 MR. WIGGINS: The updated or revised  
23 Good Manufacturing Practices policy revision dated

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1 August 18, 2007, is being marked as Exhibit 17.  
2 (Plaintiffs' Exhibit No. 17 was  
3 marked for identification and a  
4 copy of the same is attached  
5 hereto.)

6 MR. WIGGINS: The current Orientation  
7 Manual is being marked as Exhibit 18.

8 (Plaintiffs' Exhibit No. 18 was  
9 marked for identification and a  
10 copy of the same is attached  
11 hereto.)

12 MR. WIGGINS: The 2004 contract  
13 proposals and response documents are Exhibit 19.  
14 (Plaintiffs' Exhibit No. 19 was  
15 marked for identification and a  
16 copy of the same is attached  
17 hereto.)

18 MR. WIGGINS: And the 2008 contract  
19 proposals and responses will be Exhibit 20.

20 (Plaintiffs' Exhibit No. 20 was  
21 marked for identification and a  
22 copy of the same is attached  
23 hereto.)

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1 MR. WIGGINS: Now, I've got Mr. Mill's  
2 affidavit, so I'm not going to go into his  
3 background. It's all clear in his affidavit, I  
4 think.

5  
6 EXAMINATION

7 BY MR. WIGGINS:

8 Q. Let me show you the orientation manual that  
9 was produced previously, Bates numbers E 40 to E  
10 160; and I'll show you what you produced this  
11 morning, Exhibit 18.

12 Are you able to tell us what's changed in  
13 those documents?

14 A. No, sir.

15 Q. Who would be able to tell us that?

16 A. HR department.

17 Q. Who in the HR department?

18 A. HR department. There's a lot of information  
19 in these manuals. QA, HR. So the QA department  
20 supervisor or a manager, or the HR director would  
21 be the one to tell you the changes in these  
22 manuals.

23 Q. And what are their names?

Page 13

1 A. Kathy Gilmore in HR, or Butch White in QA.

2 Q. And what is Ms. Gilmore's title?

3 A. HR manager.

4 Q. And what is Mr. Whiting's (sic) title?

5 A. QA manager.

6 MR. ROSENTHAL: Is it Wade or Whiting?

7 THE WITNESS: White.

8 Q. White. I'm sorry. And he's QA manager, not  
9 supervisor, correct?

10 A. QA manager.

11 Q. Okay. Anyone else involved in revising the  
12 Employee Orientation Manual?

13 A. Not to my knowledge.

14 Q. The manual that you've produced is a bound  
15 copy in pamphlet form, correct?

16 A. Yes.

17 Q. Is that the way it's given to the employees?

18 A. Yes.

19 Q. And at what point is this employee manual,  
20 Exhibit 18, provided to the employees?

21 A. To the best of my knowledge, when they're  
22 hired.

23 Q. What role do you play in employee

4 (Pages 10 to 13)

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1 orientation or the use of the Employee Orientation  
2 Manual?  
3 A. None.  
4 Q. Who is most knowledgeable about the employee  
5 orientation and the use of the manual?  
6 A. Dante Rogers.  
7 Q. What is Dante Roger's job title?  
8 A. He's a QA manager, I do believe, and he's  
9 over new hire orientation.  
10 Q. And is Ms. Gilmore, Mr. Rogers in the QA  
11 shown on Exhibit 16?  
12 A. Yes.  
13 Q. All right. What page? This is the page  
14 that has Jim Bice, Complex Human Resource Manager  
15 at the top?  
16 A. Yes.  
17 Q. And it shows Dante Rogers as the human  
18 resource manager, correct?  
19 A. Yes.  
20 Q. Now, you're calling him a QA manager. Is  
21 that the same thing?  
22 A. No. Dante Rogers, HR manager; Butch White,  
23 QA manager.

Page 15

1 Q. Oh, I wrote it down wrong. I misunderstood  
2 you.  
3 Now, I had asked you about Mr. White. I'm  
4 not seeing him on here.  
5 A. He's on QA.  
6 Q. Okay.  
7 A. Complex QA director is his title.  
8 Q. Now, what is the complex?  
9 A. The complex is both facilities, the fresh  
10 and the further processing plants.  
11 Q. And you're the head of both plants?  
12 A. I'm the operation manager.  
13 Q. Are you shown in Exhibit 16?  
14 A. Yes.  
15 Q. Where are you at?  
16 A. On the front page -- on the second page.  
17 You see Tim Esslinger, the general manager?  
18 Q. Yes.  
19 A. I'm under him as operations manager.  
20 Q. All right. And is anyone under you?  
21 A. Yes.  
22 Q. Who is under you?  
23 A. It's on the second page.

Page 16

1 MR. GOULD: It's the fourth page  
2 actually, I believe.  
3 Q. All right. I see you now on the fourth  
4 page. And is that a complete description of  
5 everyone that reports to you?  
6 A. Yes.  
7 Q. And where is Mr. Esslinger located?  
8 MR. ROSENTHAL: On the organizational  
9 charts?  
10 MR. WIGGINS: No. Physically.  
11 Q. Where is his office?  
12 A. At the Eufaula complex.  
13 Q. Okay. So Mr. White, as complex QA director  
14 does not report to you?  
15 A. No, sir.  
16 Q. Is that right?  
17 A. Yes.  
18 Q. And the human resource director, Jim Bice,  
19 does not report to you?  
20 A. Correct.  
21 Q. And therefore Kathy Gilmore does not report  
22 to you?  
23 A. Correct.

Page 17

1 Q. And Dante Rogers does not report to you?  
2 A. Correct.  
3 Q. So does anyone that reports to you have  
4 anything to do with these orientation manuals?  
5 A. No, not as I'm aware of.  
6 Q. Now, you were designated for various topics  
7 here today. Are you aware of that?  
8 A. No.  
9 Q. Okay. I'm going to show you the next  
10 exhibit, 21.  
11 (Plaintiffs' Exhibit No. 21 was  
12 marked for identification and a  
13 copy of the same is attached  
14 hereto.)  
15 Q. This is the company's designation of  
16 witnesses under a rule called Rule 30(b)(6), which  
17 means that you have been designated to speak for  
18 and to bind the corporation.  
19 Have you seen this list of topics that you  
20 have been designated for?  
21 MR. ROSENTHAL: I'm going to object to  
22 the legal conclusion with respect to the impact of  
23 a designation. But you can answer the question.

5 (Pages 14 to 17)

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1 A. No, I have not seen these.  
 2 Q. Okay. Well, let's go over that real quick,  
 3 please. Look at topic No. 1. "The organizational  
 4 structure of Equity, including specifically any  
 5 mechanisms for oversight of individual plants by  
 6 corporate or regional managers."  
 7 You've been designated as the person  
 8 knowledgeable on that subject. Do you agree that  
 9 you are properly designated and have knowledge on  
 10 that subject?  
 11 MR. ROSENTHAL: Objection to the  
 12 request for a legal conclusion whether he was  
 13 properly designated. To the extent you have  
 14 knowledge of the subject, you can answer.  
 15 A. I have knowledge of some of it, but not all  
 16 of it.  
 17 Q. Two other people were designated for that  
 18 topic too.  
 19 Now let's look at topic No. 2 on Exhibit 21.  
 20 You were designated for the training portion of  
 21 Equity's policies and practices regarding the  
 22 maintenance of records of hours worked and wages  
 23 paid, and the training to inform employees and

Page 19

1 supervisors of these policies, and measures that  
 2 were taken to ensure compliance with these  
 3 policies.  
 4 What role do you play in that area of  
 5 training on that topic?  
 6 A. None. I have people under me that do the  
 7 training; I don't do the training.  
 8 Q. Okay. Who are they?  
 9 A. There's different levels from supervisors  
 10 all the way up to shift managers, plant managers.  
 11 Q. Okay. And take the organizational chart,  
 12 Exhibit 16, and tell me those persons.  
 13 A. It could be any of these sheets.  
 14 Q. The entire exhibit?  
 15 A. According to what department and where they  
 16 work and what they're training on.  
 17 Q. Okay. Which employees -- are you saying all  
 18 these employees shown here do training or are you  
 19 saying particular ones?  
 20 A. All of them do training.  
 21 Q. All right. But do they do training on  
 22 maintenance of records of hours worked and wages  
 23 paid?

Page 20

1 A. Maintenance of records? Explain what you're  
 2 asking now.  
 3 Q. Look at No. 2 there. Read No. 2 to yourself  
 4 to make sure you're on the same page with me.  
 5 A. (Witness complies.)  
 6 Q. Okay.  
 7 A. They do time sheets and, you know, turn in  
 8 weekly daily time sheets. Supervisors and  
 9 superintendents do time sheets and turn those in  
 10 to accounting.  
 11 Q. Okay.  
 12 A. The payroll department.  
 13 Q. All right. Just take a minute and read each  
 14 of the topics in Exhibit 21 that you've been  
 15 designated for, and tell me if you believe that  
 16 you do not have knowledge on any of those topics.  
 17 (The witness examines the  
 18 document.)  
 19 A. I mean, on some of these I've got general  
 20 knowledge of, but not in detail on all these  
 21 items. You know, there's a lot of stuff here.  
 22 Some of it I know something about, but not all;  
 23 because I've got people under me that's

Page 21

1 responsible for this.  
 2 Q. Okay. We'll get into that as we go along.  
 3 But you don't see any topics in Exhibit 21 that  
 4 you disagree with you being designated to speak  
 5 on, do you?  
 6 A. I mean, when you're talking about the  
 7 plaintiffs on their required wear, I don't even  
 8 know the plaintiffs; and I don't know 1700  
 9 employees by name and where they work, so I don't  
 10 know what they're required to wear in the position  
 11 they're in. You know what I'm saying?  
 12 Q. Uh-huh.  
 13 A. So I don't have knowledge of that. I know  
 14 what positions, what is required to be worn in  
 15 that position, according to what they're doing.  
 16 But I don't know by plaintiff's name.  
 17 Q. All right. Now, while you were looking at  
 18 that, I was looking at Exhibit 17, which is what's  
 19 called the revised GMP's; and it's considerably  
 20 more involved than the one we had before today.  
 21 Exhibit 17, is it in force as of today?  
 22 MR. ROSENTHAL: I'm going to object to  
 23 the extent to the premise of the question that

6 (Pages 18 to 21)

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1 it's considerably more involved than the prior  
 2 Good Manufacturing Practices which were supplied,  
 3 which were multiple versions of the GMP's for each  
 4 of the plants. But you can answer the question.  
 5 A. Would you repeat the question?  
 6 MR. ROSENTHAL: Is it in force today?  
 7 Q. Yeah.  
 8 A. Yes.  
 9 Q. And has this Exhibit 17 been in force since  
 10 August 18, 2007?  
 11 A. Yes.  
 12 Q. And it doesn't bear your signature, does it?  
 13 A. No.  
 14 Q. All right. But it bear's your boss's  
 15 signature, correct, or a place for the signature,  
 16 correct?  
 17 A. I don't see that.  
 18 Q. Page 2 of my copy of Exhibit 17 says, at the  
 19 top, "Robin Stevens, Fresh Plant Manager." He  
 20 reports to you though, doesn't he?  
 21 A. Correct.  
 22 Q. All right. I brought the old exhibits that  
 23 have been previously produced. Look at Exhibit 3.

Page 23

1 A. (Witness complies.)  
 2 Q. Is this the version of the Good  
 3 Manufacturing Practices that were in force and  
 4 effect from October 2, 2006, to August 18, 2007?  
 5 A. Yes. To the best of my knowledge, yes.  
 6 Q. And look at page 2. That's your signature,  
 7 correct?  
 8 A. Yes.  
 9 Q. You signed it October 2, 2006, correct?  
 10 A. Yes.  
 11 Q. Do you know why, when it was revised in  
 12 August of 2007, it didn't call for your signature?  
 13 A. No.  
 14 Q. Okay. Look at page 3 of Exhibit 17.  
 15 A. (Witness complies.)  
 16 Q. Is that an accurate and complete list of the  
 17 revisions, dates, and type of revisions?  
 18 A. To the best of my knowledge.  
 19 Q. How long have you been with Equity Group?  
 20 A. Since March of '04.  
 21 Q. And what was your job history prior to that?  
 22 A. I was with CP.  
 23 Q. And what does CP stand for?

Page 24

1 A. Charoen Pokphand.  
 2 Q. And how long were you with them?  
 3 A. Started September 1999.  
 4 Q. And what were your jobs for CP?  
 5 A. First job, I was maintenance manager; then I  
 6 was promoted in 2000 to plant manager; then I was  
 7 plant manager when Equity Group bought Charoen  
 8 Pokphand.  
 9 Q. And when did that take place?  
 10 A. When it was purchased?  
 11 Q. Correct.  
 12 A. I believe March of '04.  
 13 Q. And when did you become complex manager?  
 14 A. Operations manager.  
 15 Q. Complex operations manager I think is your  
 16 title.  
 17 A. I don't remember the date. It was sometime  
 18 October or November of '04.  
 19 Q. Who did you replace?  
 20 A. No one.  
 21 Q. From 2000 to 2004 you said you were plant  
 22 manager. Of which plant?  
 23 A. Fresh plant.

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1 Q. To whom did you report?  
 2 A. Lee Allen.  
 3 Q. And what was his job?  
 4 A. Complex manager.  
 5 Q. So they created a new position called  
 6 complex operations manager sometime in late 2004?  
 7 A. Yes.  
 8 Q. Do you know why?  
 9 A. No.  
 10 Q. Now, looking at Exhibit 3 again, which you  
 11 said was the predecessor to Exhibit 17, it has 19  
 12 numbered paragraphs, correct?  
 13 A. What are you talking about 19 paragraphs?  
 14 Q. I'm sorry. 29 paragraphs. You've got  
 15 Exhibit 3 in front of you, correct?  
 16 A. Uh-huh.  
 17 Q. All right. It has six pages with 29  
 18 numbered paragraphs, correct?  
 19 A. Yes.  
 20 Q. All right. Now, looking at the revised  
 21 2007, Exhibit 17, it has 41 numbered paragraphs,  
 22 then a series of bullet point paragraphs, then it  
 23 looks like it picks up with some more numbered

7 (Pages 22 to 25)

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1 paragraphs; so I really don't know how many in  
2 total.  
3 But you would agree that this new policy has  
4 many, many more paragraphs than the predecessor  
5 policy, correct?  
6 MR. ROSENTHAL: Objection to the extent  
7 you're referring to P3 as the predecessor. This  
8 P17 is a combination of GMP's for all the entire  
9 complex plants. This is limited to the fresh  
10 plant only. It is not correct to say that this is  
11 the predecessor to this; this is one part of it.  
12 MR. WIGGINS: All right. But I think  
13 you're going to have to let the witness be the  
14 witness.  
15 MR. ROSENTHAL: Well, I'm objecting to  
16 your question.  
17 MR. WIGGINS: Well, he had already  
18 answered that question.  
19 MR. ROSENTHAL: No.  
20 MR. WIGGINS: Well, the record will  
21 show that. But still, I don't think that's a  
22 proper objection. And I think the witness needs  
23 to be the witness, not the lawyer.

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1 MR. ROSENTHAL: Well, I objected before  
2 and you continued to try to refuse the witness by  
3 referring to a document incorrectly, which is  
4 improper under the rules.  
5 MR. WIGGINS: Well, the rules say you  
6 can object to the form. And I'm going to object  
7 to speaking objections. If the witness answers  
8 wrong and you need to redirect him, that's fine;  
9 but I don't want you interrupting in the middle of  
10 the deposition like that.  
11 MR. ROSENTHAL: You don't set the  
12 rules, Mr. Wiggins.  
13 MR. WIGGINS: No, but I know the rules,  
14 and I don't want to have to go to the judge about  
15 them.  
16 (BY MR. WIGGINS)  
17 Q. Did you play any role in this revision  
18 that's Exhibit 17?  
19 A. No.  
20 Q. Do you know why it was revised?  
21 A. No.  
22 Q. Do you know how it was revised?  
23 A. No.

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1 Q. But you would agree that it's longer, has  
2 more paragraphs than Exhibit 3, correct?  
3 A. It has more paragraphs than Exhibit 3.  
4 Q. Do you know why?  
5 A. Because this covers slaughter, debone, and  
6 further processing, as it states.  
7 Q. And what did Exhibit 3 cover?  
8 A. To the best of my knowledge, this only  
9 covers slaughter/debone. It states "Fresh  
10 Processing" on the cover sheet.  
11 Q. All right. Is there any part of Exhibit 17  
12 that does not relate to slaughter, debone, and  
13 further processing in the same way?  
14 MR. ROSENTHAL: Object to the form. In  
15 the same way?  
16 Q. Is there any part of Exhibit 17 which does  
17 not apply to all three areas -- slaughter, debone,  
18 and further processing -- in the same way?  
19 A. I don't know the answer to that.  
20 Q. All right. Well, given the length of this  
21 one, I think I'm going to take a few minutes to  
22 read it.  
23 MR. WIGGINS: Take a break?

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1 MR. ROSENTHAL: It's your deposition.  
2 Q. While he's getting that copied, let me ask  
3 you some other questions, and then we'll take a  
4 break at that point.  
5 Are employees required to process chicken or  
6 produce poultry products in a way that does not  
7 contaminate the product?  
8 A. Yes.  
9 Q. Is that one of their principal  
10 responsibilities?  
11 A. Yes.  
12 Q. Are all employees required to do their  
13 processing or production work in a manner that  
14 produces uncontaminated chicken products?  
15 A. Yes.  
16 Q. These Good Manufacturing Practices that we  
17 have in Exhibit 3 and Exhibit 17, the purpose of  
18 them is for employees to be able to produce  
19 uncontaminated poultry products, correct?  
20 A. Yes.  
21 Q. And that benefits the company so that it can  
22 sell its products to its customers, correct?  
23 A. Yes. And it's a USDA regulation.

8 (Pages 26 to 29)

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Q. Your customers are purchasing from you<br/>2 uncontaminated poultry products, correct?<br/>3 A. Yes.<br/>4 Q. You represent to them that when they<br/>5 purchase poultry products from your company, they<br/>6 are receiving wholesome, uncontaminated products,<br/>7 correct?<br/>8 A. Yes.<br/>9 Q. Now, I don't have a real good copy of this<br/>10 map -- I suppose it's as good as you've got -- but<br/>11 I want you to help me read it.<br/>12 MR. WIGGINS: We'll mark this as<br/>13 Exhibit 22.<br/>14 (Plaintiffs' Exhibit No. 22 was<br/>15 marked for identification and a<br/>16 copy of the same is attached<br/>17 hereto.)<br/>18 Q. Which side do you read this from? This<br/>19 side, I suppose. Show me the parking lot.<br/>20 MR. ROSENTHAL: You'll have to explain<br/>21 for the court reporter what you're pointing to.<br/>22 Q. Let's take this red pen and mark the parking<br/>23 lot for us.</p> | <p>1 A. Yes.<br/>2 Q. And what's the first thing they come to as<br/>3 they enter each door in the fresh plant?<br/>4 A. A hallway leading to production or break<br/>5 room areas.<br/>6 Q. And is the break room listed on the map?<br/>7 A. Yes. Debone break room listed, evis break<br/>8 room listed, back dock break room right here.<br/>9 Q. Back dock; it's not listed, is it?<br/>10 A. I can't read it if it is.<br/>11 Q. Well, write that on there for us.<br/>12 A. (Witness complies.)<br/>13 Q. Now, where do employees sanitize their boots<br/>14 or shoes?<br/>15 A. At the entrance of each processing area they<br/>16 walk through a floor sanitizer.<br/>17 Q. All right.<br/>18 A. Any entrance into the building has floor<br/>19 sanitizers you walk through nonstop.<br/>20 Q. You've got two entries marked. Are there<br/>21 others?<br/>22 A. Any door leading from the outside. This<br/>23 print is so small I can't designate every little</p> |
| Page 31                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Page 33                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>1 A. This is the parking lot that I'm marking in<br/>2 red.<br/>3 Q. All right.<br/>4 MR. ROSENTHAL: For the record, Mr.<br/>5 Mills marked three areas in red and designated<br/>6 them "parking lot."<br/>7 Q. And this bigger parking lot is for the fresh<br/>8 plant?<br/>9 A. Yes.<br/>10 Q. And this second biggest parking lot is for<br/>11 the further processing plant?<br/>12 A. Yes.<br/>13 Q. And what's this smallest parking lot for?<br/>14 A. Admin parking lot.<br/>15 Q. Okay. Now, in the fresh plant, where do<br/>16 employees enter the plant?<br/>17 A. They can enter at either end, the north or<br/>18 south end of the further processing plant.<br/>19 Q. All right. Put the word "entry."<br/>20 A. (Witness complies.)<br/>21 Q. All right. You put E-N-T for the two<br/>22 entrances.<br/>23 Are employees allowed to enter either door?</p>                                                           | <p>1 door. But every door entering into the processing<br/>2 area has a floor sanitizer that keeps the floor<br/>3 wet with sanitizer.<br/>4 Q. Okay. Show me where the other entrance<br/>5 doors are.<br/>6 A. I don't know if that's possible, as small as<br/>7 this print is.<br/>8 There's one in this area; there's one out of<br/>9 this control room; there's one out of this<br/>10 maintenance shop area; there's one in a doorway<br/>11 over here that I cannot see on this print.<br/>12 Every door leading into processing has a<br/>13 floor sanitizer.<br/>14 Q. Okay. Now, is there north, south, east, and<br/>15 west on this map?<br/>16 A. I do not see one.<br/>17 Q. Do y'all -- how do you describe the plant?<br/>18 Do you call it the north end or south end, or do<br/>19 you have words that describe where you're at in<br/>20 the plant?<br/>21 A. Just departments.<br/>22 Q. Okay. Tell me what the departments are.<br/>23 A. Debone.</p>     |

9 (Pages 30 to 33)

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1 Q. Write that down.  
 2 A. (Witness complies.)  
 3 Q. Okay.  
 4 A. DSI, shipping, maintenance shop,  
 5 refrigeration room, control room.  
 6 This thing is so small I can't read it.  
 7 This is not right. This is cooler.  
 8 Q. What you had marked as maintenance is really  
 9 the cooler?  
 10 A. This is the maintenance shop.  
 11 Q. Okay.  
 12 A. This is the refrigeration room; this is the  
 13 chiller room; this is the evis department; this is  
 14 the picking room; this is the shackling room; this  
 15 is the back dock, back dock/live receiving; this  
 16 is office areas right here in this area; this is  
 17 the evis break room right here in this open spot;  
 18 this is USDA.  
 19 Q. Where's QA?  
 20 A. QA office is right here; QA manager's office  
 21 is right here; plant manager is right here; my  
 22 office is right here; conference room, production  
 23 manager, production manager, production

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1 coordinator; this is debone break room; this is  
 2 the locker area in the break room; there's also a  
 3 locker area in this break room that I can't even  
 4 see where it's at it's so small.  
 5 Q. Okay.  
 6 A. This is the entrance for the office  
 7 personnel right here.  
 8 Q. All right. Where are the first line  
 9 supervisors' offices?  
 10 A. It's not even shown on this print. Right  
 11 here.  
 12 Q. That's in the production area, correct?  
 13 A. There's an office area right here, and then  
 14 there's a --  
 15 Q. Let me stop you. Is this in the production  
 16 area where these first line supervisors' offices  
 17 are?  
 18 A. No.  
 19 Q. Okay. You've got to go outside the  
 20 production area to get the supervisors?  
 21 A. Through this door right here, and there's a  
 22 door on each end that's going to lead to these  
 23 offices.

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1 Q. Okay. And does that door from the  
 2 supervisor's office into debone have a foot  
 3 sanitizer?  
 4 A. No.  
 5 Q. Okay.  
 6 A. Just doors from the outside into the  
 7 processing plant.  
 8 Q. All right. Now, I interrupted you. Where  
 9 are the other supervisors' offices?  
 10 A. There's another supervisor office in this  
 11 area. Honestly, this thing's so jumbled up, I  
 12 can't make out where it's at. But right in this  
 13 area here is a supervisor's office. I believe  
 14 it's in this corner right here.  
 15 And then offices here. Production manager  
 16 is in this area. Sanitation manager has an office  
 17 in this warehouse. This has got offices in it  
 18 which are not drawn.  
 19 Q. What's this called here?  
 20 A. Warehouse. And there's offices in here that  
 21 houses sanitation manager for this plant and  
 22 purchasing for this complex.  
 23 There's a maintenance manager's office in

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1 this area, a maintenance supervisor's office in  
 2 this area.  
 3 Q. Okay. And the evisceration department  
 4 supervisors' offices are where?  
 5 A. Right here, this back corner right here.  
 6 Q. All right. Now, the production process goes  
 7 from live receiving down to debone?  
 8 A. Yes.  
 9 Q. All right. Now, you had marked for us, but  
 10 let's get it in the record, where these foot  
 11 sanitizing activities are taking place.  
 12 A. There's a number of them. I don't know all  
 13 the exact locations, but I know it's a requirement  
 14 that they are on every entrance into the  
 15 production area on the inside.  
 16 Q. That's a company requirement?  
 17 A. No.  
 18 Q. Whose requirement?  
 19 A. USDA.  
 20 Q. And the company has a policy that employees  
 21 must comply with USDA requirements, correct?  
 22 A. Yes.  
 23 Q. Let's see if we can get a verbal description

10 (Pages 34 to 37)

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1 of where these places are.  
 2 On the debone end of the plant entrance, you  
 3 come down -- you come into the entry and exit  
 4 door, and you walk down a hall that runs parallel  
 5 to the debone department and the debone break  
 6 room, correct?  
 7 A. Correct.  
 8 Q. Then there's a main entrance there across  
 9 the hall from the debone break room that the  
 10 employees enter the production area, correct?  
 11 A. Correct.  
 12 Q. And there is a foot sanitation process at  
 13 that door, correct?  
 14 A. Yes.  
 15 Q. Employees entering the evisceration end of  
 16 the building and the live receiving end of the  
 17 building, when they come in that door, they come  
 18 down that same hall but from the other end of the  
 19 building, correct?  
 20 A. Either end. They can come in either end  
 21 they'd like. They're not required for evis to  
 22 come in one end and debone to come in the other  
 23 end. They can come in either end they'd like.

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1 Q. Okay. But down on the evisceration end  
 2 there is another entrance from the hall into the  
 3 production area that has a required boot  
 4 sanitation station, correct?  
 5 A. Yes.  
 6 Q. Now, you pointed us to some others back in  
 7 here. Verbally tell us where you're going from  
 8 and to at the point that you have those boot  
 9 sanitation activities occurring.  
 10 A. Best of my knowledge, and I'm not familiar  
 11 with all that, there is one coming out of the  
 12 control room into the evis department; there is a  
 13 foot sanitizer coming out of the maintenance shop  
 14 into the production area, and --  
 15 Q. Which production area?  
 16 A. Evis. There is a foot sanitizer coming off  
 17 the shipping loading area onto the production  
 18 area.  
 19 Q. Which production area?  
 20 A. Debone. Debone staging area. And I'm sure  
 21 there's more, but I don't remember the other ones.  
 22 I don't remember where the rest of them are  
 23 located.

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1 Q. Okay. Do you know of any documents that  
 2 list them?  
 3 A. Not as I'm aware of.  
 4 Q. Now, describe your current boot sanitation  
 5 process.  
 6 A. It is a unit mounted on the wall that takes  
 7 and blows chemicals on the floor; it keeps the  
 8 floor wet. And all they do is walk across the  
 9 floor.  
 10 Q. How long has that been the practice?  
 11 A. I don't recall when we started that up.  
 12 Q. Give me your best estimate.  
 13 A. This is totally a guess: three years.  
 14 Totally a guess. I don't know. It's been in a  
 15 while.  
 16 Q. Who would know?  
 17 A. I don't know the answer to that either.  
 18 Q. Are there any documents that describe the  
 19 boot sanitation process that you've said you walk  
 20 across a wet floor?  
 21 A. Not as I'm aware of.  
 22 Q. Does an employee have to push any buttons?  
 23 A. No. They're on timers. They come on

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1 automatic.  
 2 Q. And are they motion-sensored or just pure  
 3 time?  
 4 A. Pure time.  
 5 Q. Now, describe your prior boot sanitation  
 6 process.  
 7 A. We didn't have one prior to this.  
 8 Q. All right. I've heard described -- I wasn't  
 9 at the depositions, but I've had people tell me  
 10 some of the things that were said. But there was  
 11 mention apparently of some boot sanitation process  
 12 where employees had to punch a button of some  
 13 type. Are you familiar with that?  
 14 MR. ROSENTHAL: Objection to the  
 15 reference that any employee said that at the  
 16 deposition. You can answer.  
 17 A. No, I'm not aware of that. No employee has  
 18 to push a button on the boot sanitizer.  
 19 Q. Does an employee have to do anything other  
 20 than walk across a wet floor?  
 21 A. That's it.  
 22 Q. And that's been the only process you've ever  
 23 had?

11 (Pages 38 to 41)

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1 A. Yes.  
 2 Q. Now, is an employee required to do anything,  
 3 other than enter the building and punch his clock,  
 4 before going into the production area?  
 5 A. He's not required to. He's required to put  
 6 on a hair net, beard net if he has a beard, and  
 7 earplugs.  
 8 Q. All right. But he's not required to do that  
 9 in the production area?  
 10 A. No.  
 11 Q. Is he required to do it before the employee  
 12 enters the production area?  
 13 A. Yes.  
 14 Q. All right. Is that in writing?  
 15 A. Not that I'm familiar with. I'm not saying  
 16 it's not; I don't know.  
 17 Q. Okay. Now, where is the time card punch  
 18 clock?  
 19 A. Just inside the doors at the break rooms.  
 20 There's a time clock right here that I'm aware of.  
 21 Q. Put "TC" right there, so I can remember it  
 22 when I see it.  
 23 A. Okay. And there's one in this area. I

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1 don't remember which side of the door it's on.  
 2 Q. All right.  
 3 A. And I know there's one at the hallway right  
 4 here for maintenance.  
 5 Now, I'm not for sure on the picking and  
 6 receiving if there's one back there; I don't know,  
 7 because I'm not in that area that much. But I  
 8 know these are here. And there's also one in this  
 9 break room in that area right there, in the evis  
 10 break room.  
 11 Q. The picking and receiving employees, they  
 12 enter these two main entrance doors that you've  
 13 shown us?  
 14 A. They can enter either at this entrance, or  
 15 if they are live shacklers, they can enter at this  
 16 entrance, or they can enter through the  
 17 picking/receiving break room area. Either or.  
 18 Q. At the beginning of the day, they can come  
 19 in through the picking and receiving area?  
 20 A. Yes. If they work in that area.  
 21 Q. And you think there's a time clock back  
 22 there?  
 23 A. I don't know; I think. I don't know.

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1 Q. Okay. So as I understand your testimony,  
 2 there is nothing that employees are required to do  
 3 before they enter the production area, other than  
 4 punch their clock?  
 5 A. As I stated, hair nets, beard nets, and  
 6 earplugs before entering into the production area.  
 7 Q. Okay. What are they required to do upon  
 8 entry into the production area?  
 9 A. Put on their smock, wash their hands before  
 10 going to the line.  
 11 Q. Anything else?  
 12 A. Arm guard if they're using knives or  
 13 scissors, after they enter into the production  
 14 area.  
 15 Q. When you say "arm guard," you mean put it  
 16 on?  
 17 A. Slide it over your arm.  
 18 Q. Okay. Anything else?  
 19 A. That's all I'm aware of.  
 20 Q. All right. Now, where are the wash basins?  
 21 A. Wash basins? When you enter into debone,  
 22 they're in this area right here. When you enter  
 23 into evis, they're in this area right here. When

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1 you enter from the picking/receiving break room  
 2 area when you enter into production, they're right  
 3 on the wall when you go through the door. There's  
 4 wash basins back here in this area.  
 5 Q. What do you call that area?  
 6 A. DSI area. There's wash basins here.  
 7 There's wash basins in the evisceration department  
 8 on this wall here. They're in a lot of locations.  
 9 That's the ones I remember at this time.  
 10 Q. All right. Now, the first one you told me  
 11 about, you're coming from the hall adjacent to the  
 12 break room into the debone department?  
 13 A. Yes.  
 14 Q. And the wash basin is adjacent to the entry  
 15 to the debone department?  
 16 A. Right beside the entry.  
 17 Q. How many stations or spigots do you have?  
 18 A. I don't know the answer to that.  
 19 Q. Give me an approximation.  
 20 A. I don't know.  
 21 Q. Are employees required to wash their hands  
 22 at that station?  
 23 A. They are required to wash their hands before

12 (Pages 42 to 45)

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1 going to the line, after entering the production  
2 area.  
3 Q. And that's the only wash basin that they use  
4 for that purpose?  
5 A. No.  
6 Q. All right.  
7 A. They've got wash basins in evis department;  
8 they've got wash basins in debone department. The  
9 people that work in DSI can wash here before going  
10 to their job. The people in picking and receiving  
11 can wash here before going to their job.  
12 Q. Okay. Now, the evisceration sink you told  
13 us about is right there as you come in that door  
14 to that area?  
15 A. Yes. Right in front of the door, yes.  
16 Q. Okay. Where do the DSI employees enter into  
17 the production area at the start of the day?  
18 A. I can't really answer where they enter.  
19 They can enter here and walk across; they can  
20 enter into the debone entrance and walk around;  
21 they can enter either one of these areas and walk  
22 to the DSI. I can't tell you that all DSI enter  
23 this area. They're not required to enter no

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1 certain area.  
2 Q. All right. Let me read that new exhibit you  
3 brought me. We'll take a break for a few minutes.  
4 A. Okay.  
5 (A brief recess was taken.)  
6 (BY MR. WIGGINS)  
7 Q. All right. Let's take this book I gave you  
8 and let's look at Exhibit 1. This is called "New  
9 Hire GMP Policy."  
10 During what period of time was this in force  
11 and effect?  
12 A. I can't answer that.  
13 Q. Is it currently in force or effect?  
14 A. Yes.  
15 Q. Give me your best estimate of how long it  
16 has been in force and effect.  
17 A. I don't have a clue on this particular  
18 policy exhibit.  
19 Q. Okay. Let's go to -- Before I go to No. 2,  
20 let me ask you this: Does this New Hire GMP  
21 Policy apply to all employees that are under you,  
22 including the hourly employees in the two plants?  
23 (The witness examines the

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1 document.)  
2 A. Yes.  
3 Q. And you took your time to read the document  
4 before answering, correct?  
5 A. I scanned over it.  
6 Q. Okay. Now let's go to Exhibit No. 2. This  
7 is called "Equity Group - Eufaula Division, LLC  
8 Good Manufacturing Practices (GMP'S)," correct?  
9 A. Yes.  
10 Q. And is this currently in force and effect?  
11 (The witness examines the  
12 document.)  
13 A. Yes, to the best of my knowledge.  
14 Q. All right. And we sat here while you took  
15 your time to read that document also, correct?  
16 A. I scanned over it, yes.  
17 Q. And it's got a signature, Mary Allen. Is  
18 that an hourly employee, more than likely?  
19 A. I don't have a clue. I don't know Mary  
20 Allen.  
21 Q. Are employees required to sign this document  
22 at some point in the process?  
23 A. I don't have an answer to that; I don't

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1 know.  
2 Q. All right. Let's look back at the other  
3 exhibit real quick. It starts at page 4. Do you  
4 know why?  
5 A. No, I don't.  
6 Q. Let's go to Exhibit 3. This is the Equity  
7 Group Eufaula Good Manufacturing Practices for  
8 fresh processing, correct?  
9 A. Yes.  
10 Q. And it says the issue date was March 15,  
11 2004, correct?  
12 A. Yes.  
13 Q. Revised date, October 2, 2006?  
14 A. Yes.  
15 Q. And this is one you earlier identified that  
16 you had signed.  
17 When did Equity Group take over at this  
18 plant, the fresh processing plant?  
19 A. In March of 2004, I believe.  
20 Q. So this was the very first one under Equity  
21 Group's ownership, correct?  
22 A. I can't answer that. I would think so, but  
23 I don't know.

13 (Pages 46 to 49)

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## FREEDOM COURT REPORTING

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1 Q. All right. Do you see any part of Exhibit 3  
2 that is not currently in force and effect?  
3 (The witness examines the  
4 document.)  
5 A. To the best of my knowledge, briefly  
6 scanning over it, I believe they're all in force  
7 at this time.  
8 Q. And we sat here while you took time to read  
9 through the document.  
10 MR. ROSENTHAL: Objection. Not a point  
11 in the question. You can answer.  
12 A. Well, I briefly scanned over it.  
13 Q. Well, we sat here; it appeared you read  
14 every paragraph.  
15 A. I did not read every paragraph.  
16 Q. All right. Well, if you need to read every  
17 paragraph to answer my next question, please do  
18 so.  
19 But as I understand your testimony, the  
20 items listed in Exhibit 3 employees have been  
21 required to comply with from March 2004 to  
22 present, correct?  
23 A. Yes, to the best of my knowledge.

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1 Q. Okay. Let's look at Exhibit 4. What is  
2 this document, page 1, called "Correct Hand/Glove  
3 Washing"?  
4 A. First time I've ever seen it. I don't know.  
5 Q. Does it accurately describe what the company  
6 instructs employees to do in regard to hand/glove  
7 washing?  
8 A. I can't answer that. First time I've ever  
9 seen this document.  
10 Q. I understand that. But the six items listed  
11 there, is that what employees are required to do  
12 in washing hands and gloves?  
13 A. We do not measure the soap by a dime to see  
14 if they're using a dime-size soap. I've never  
15 known nobody doing that. We never time them to  
16 see if they scrub for 10 seconds.  
17 Q. It doesn't say anything about timing, but go  
18 ahead and finish your answer.  
19 A. It says, "Rubbing hands together for at  
20 least 10 seconds..." We don't put a stopwatch on  
21 them.  
22 Q. Do you attend the training that employees  
23 receive in regard to sanitation?

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1 A. No.  
2 Q. Are employees given training and instruction  
3 in how to properly sanitize their hands and  
4 gloves?  
5 A. I can't answer that. That's handled under  
6 my management.  
7 Q. What is an SOP?  
8 A. Standard operating procedure.  
9 Q. Do you have a standard operating procedure  
10 for hand/glove washing, other than Exhibit 4, page  
11 1?  
12 MR. ROSENTHAL: Objection. This  
13 witness said he -- he didn't identify this as an  
14 SOP. He said he's never seen it before.  
15 A. I can't answer that.  
16 MR. ROSENTHAL: It appears by the  
17 number it was produced by one of the employees.  
18 Q. But my question is: Do you have a standard  
19 operating procedure?  
20 A. I can't answer that.  
21 Q. You don't know if there is one for  
22 hand/glove washing?  
23 A. No, I don't.

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1 Q. Do you know if there's one for boot  
2 sanitation?  
3 A. No, I don't.  
4 Q. Look at Exhibit 4, page 2. This is called  
5 "G.M.P.S." Do you know what that means?  
6 A. No.  
7 Q. But you do know what a GMP is, correct?  
8 A. Yes.  
9 Q. What is a GMP?  
10 A. Good manufacturing practice.  
11 Q. And that's the policies of the company; is  
12 that correct?  
13 A. Yeah. That's the manufacturing practices.  
14 Q. Those are the practices employees are  
15 required to follow?  
16 A. Yes.  
17 Q. All right. Now, do you see anything in  
18 Exhibit 4, page 2, that employees have not been  
19 required to do since March 2004?  
20 (The witness examines the  
21 document.)  
22 A. Would you repeat that question, please?  
23 Q. Is there any item on Exhibit 4, page 2,

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1 called "G.M.P.S" that employees have not been  
 2 required to comply with since March 2004?  
 3 A. Yes.  
 4 Q. Which?  
 5 A. First, this is the first time I've ever seen  
 6 this document. We don't have maroon smocks; we  
 7 don't do fully cooked. And I don't understand  
 8 this, "V-Megs/Combos/Totes must be washed out when  
 9 changing from one product to another." I don't  
 10 know what that means. Because we can put wings in  
 11 one combo and drumsticks in the combo. But I've  
 12 never seen this G.M.P.S before.  
 13 Q. Okay. But the items listed there though  
 14 accurately reflect what employees are required to  
 15 do, except for those you just listed, correct?  
 16 A. Says "No jewelry allowed." We do allow a  
 17 wedding band as long as it doesn't have sets.  
 18 Q. Anything else?  
 19 A. "Floor person only does floor work, no work  
 20 on the line." That's not a true statement.  
 21 Q. Okay. Now, what is a true statement in  
 22 regard to floor persons as to whether they work on  
 23 the line?

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1 A. They can do whatever their supervisor asks  
 2 them to do, as long as they do the proper  
 3 procedure to do it. I mean, if they work on the  
 4 floor and they change aprons and wash their hands,  
 5 they're allowed to work on the line.  
 6 Q. Okay.  
 7 A. This, "Water hoses (black for floor, clear  
 8 for machines)..." I've never seen that before. I  
 9 have no idea where this document come from. I've  
 10 never seen it at our plant.  
 11 Q. I understand that. Do you have a par fried  
 12 line?  
 13 A. Yes.  
 14 Q. Let's go to the next page of Exhibit 4.  
 15 This is E 739, which apparently means it's  
 16 produced by the company. Do you recognize it?  
 17 A. No, I'm not familiar with this.  
 18 Q. All right. Let's go to Exhibit 5. This is  
 19 the attendance policy. Are you familiar with that  
 20 document?  
 21 (The witness examines the  
 22 document.)  
 23 A. I'm not that familiar with the attendance

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1 policy because I don't do attendance on hourly  
 2 personnel; but I know we do have an attendance  
 3 policy. To state this is the attendance policy we  
 4 have in place, I can't do that.  
 5 Q. Okay. Let me refer you to one part of it  
 6 though.  
 7 It says, "Accumulation of six points will  
 8 result in voluntary separation from the company."  
 9 Is that a true statement for the two plants you  
 10 supervise?  
 11 A. Yes.  
 12 Q. What does it mean "voluntary separation"?  
 13 A. They quit.  
 14 Q. Okay. And then it says, first bullet point,  
 15 "Arriving to work late and otherwise failing to be  
 16 ready to work at your designated start time equals  
 17 one-half point," correct?  
 18 A. I believe that's correct, to the best of my  
 19 knowledge.  
 20 Q. Is that a policy that's been followed since  
 21 Equity took over in March 2004?  
 22 A. That was a policy that was negotiated in a  
 23 union contract, and we go by the union contract

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1 between Equity and RWDSU. We go by the contract  
 2 agreement.  
 3 Q. Okay. But is this arriving to work late and  
 4 otherwise failing to be ready to work at your  
 5 designated start time equaling one-half point, is  
 6 that the practice followed since March 2004?  
 7 A. I don't know since March 2004. It's in  
 8 place today. I don't remember if it went all the  
 9 way back to 2004.  
 10 Q. Okay. If an employee is one minute late,  
 11 can they be given a half point?  
 12 A. Yes.  
 13 Q. Does the company timekeeping system allow  
 14 you to identify when an employee is one minute  
 15 late?  
 16 A. Yes.  
 17 Q. And do you dock an employee's pay when  
 18 they're one minute late?  
 19 A. It's according to where they work. When you  
 20 say "dock their pay," you need to...  
 21 Q. Is that one minute that they're late  
 22 subtracted from their pay?  
 23 A. When you say "subtracted," what department

15 (Pages 54 to 57)

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1 are you talking about? If they're on a scheduled  
 2 time and they get paid from point A to point B and  
 3 they're not there at point A, yes. But if they're  
 4 on a clock in/clock out, it will be their clock  
 5 in/clock out time.  
 6 Q. And which departments are on scheduled time?  
 7 A. When you say "scheduled," you mean from a  
 8 clock in to clock out, or are you talking about  
 9 from a standard starting time to a standard ending  
 10 time?  
 11 Q. You used the words "scheduled time."  
 12 A. Master card time. Is that what you're  
 13 referring to?  
 14 Q. I don't know; I'm asking you. You used the  
 15 term "scheduled time." What did you mean by that?  
 16 A. If you're scheduled to be there at 7 a.m.  
 17 and work until 3:30 p.m., that's scheduled.  
 18 Q. Okay.  
 19 A. And if they clock in at 7:01, they get paid  
 20 from 7:01 until.  
 21 Q. All right. Now, is that different than  
 22 master card time?  
 23 A. Master card is a scheduled time, per se.

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1 Q. Is master card something that's swiped?  
 2 A. Yes.  
 3 Q. Where is the master card swiped?  
 4 A. At either one of the Kronos time clocks.  
 5 Q. That's the same time clock that the personal  
 6 time card is swiped?  
 7 A. Yes.  
 8 Q. Who swipes the master card?  
 9 A. I don't know the answer to that. Either  
 10 supervisor, superintendent, production manager.  
 11 One of the managers.  
 12 Q. Now, is an employee on a clock-in/clock-out  
 13 basis, is that something different than an  
 14 employee that's on a scheduled time basis?  
 15 A. Yes.  
 16 Q. What's the difference?  
 17 A. The clock in and clock out is from when they  
 18 clock in until the end of their shift they clock  
 19 out.  
 20 Q. Which employees are on a clock-in/clock-out  
 21 timekeeping system?  
 22 A. I'm not familiar with every one of them. I  
 23 know maintenance is on the clock in/clock out.

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1 Q. Is there a document that identifies which  
 2 jobs or employees are on a clock-in/clock-out  
 3 method?  
 4 A. I don't know the answer to that.  
 5 Q. Do you know if there's a document that lists  
 6 the jobs or employees that are on a scheduled time  
 7 method?  
 8 A. I don't know the answer to that.  
 9 Q. And what about the master card? Is there  
 10 anything that identifies which employees or jobs  
 11 are subject to a master card method?  
 12 A. I don't know the answer to that. I don't do  
 13 payroll.  
 14 Q. Are there any other methods of timekeeping  
 15 used for hourly employees, besides those three:  
 16 scheduled time, master card, and clock in/clock  
 17 out?  
 18 A. Not as I'm aware of.  
 19 Q. An employee that's on a master card method,  
 20 if he's one minute late, is that subtracted from  
 21 his pay time?  
 22 A. Yes.  
 23 Q. And, of course, an employee on a clock

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1 in/clock out, if they're a minute late, they would  
 2 have that minute subtracted also; is that correct?  
 3 A. It would be in their clock in/clock out. It  
 4 would be calculated in their clock in to clock  
 5 out.  
 6 Q. Okay. Let's look at Exhibit 6. Do you  
 7 recognize this document called "General Safety  
 8 #4"?  
 9 A. No.  
 10 Q. It was produced by the company as Bates  
 11 number 639. Read it. There's 17 sentences --  
 12 numbered sentences. And tell me is there anything  
 13 in there that has not been followed or required of  
 14 employees since March 2004.  
 15 (The witness examines the  
 16 document.)  
 17 A. We don't require safety glasses. "You are  
 18 required to wear safety glasses and earplugs when  
 19 entering the process area."  
 20 We don't require safety glasses for all  
 21 employees of the complex.  
 22 Q. Do you require them for any employees?  
 23 A. Yes.

16 (Pages 58 to 61)

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Q. Which?</p> <p>2 A. Maintenance.</p> <p>3 Q. Any others?</p> <p>4 A. Sanitation. And there may be some others</p> <p>5 that I've not aware of.</p> <p>6 Q. Would there be a document that would list</p> <p>7 which jobs or employees are required to wear</p> <p>8 safety glasses?</p> <p>9 A. Not that I'm aware of.</p> <p>10 Q. And No. 5, I guess, is the one you're</p> <p>11 speaking of about safety glasses, right?</p> <p>12 A. Yes.</p> <p>13 Q. And that says, quote, You are required to</p> <p>14 wear safety glasses and earplugs when entering the</p> <p>15 process area.</p> <p>16 The process area, that's the production</p> <p>17 area?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Now, why would you require some</p> <p>20 employees to wear safety glasses in the production</p> <p>21 area and not others?</p> <p>22 A. It's according to the job they do.</p> <p>23 Q. Do you have job descriptions?</p>                                                                                              | <p>1 familiar with job descriptions. There are job</p> <p>2 descriptions.</p> <p>3 Q. You've never looked at the job descriptions</p> <p>4 for the employees that report directly to you?</p> <p>5 A. Yes, I've looked at them; I didn't memorize</p> <p>6 them.</p> <p>7 Q. This Exhibit 16 you produced today shows</p> <p>8 five employees reporting to you, other than your</p> <p>9 administrative assistant; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know anything about the job</p> <p>12 descriptions for those five people?</p> <p>13 A. Not as they're written I don't know. I know</p> <p>14 what their job is, but I don't know what their job</p> <p>15 description says.</p> <p>16 Q. Who is responsible for having job</p> <p>17 descriptions or getting them written?</p> <p>18 A. Job descriptions are normally written out of</p> <p>19 our Huntsville office.</p> <p>20 Q. Is that the home office?</p> <p>21 A. That's the division office.</p> <p>22 Q. All right. The head person here in the</p> <p>23 Eufaula division is Mr. Esslinger; is that right?</p> |
| Page 63                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Page 65                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>1 A. Yes.</p> <p>2 Q. Do you have job descriptions for hourly</p> <p>3 jobs?</p> <p>4 A. I don't know the answer to that.</p> <p>5 Q. Do you have job descriptions for your job?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have job descriptions for the</p> <p>8 employees that report to you?</p> <p>9 A. Yes, there are some generic job</p> <p>10 descriptions.</p> <p>11 Q. What do you mean by "generic"?</p> <p>12 A. Generic is kind of broad. It's not saying</p> <p>13 in the job description, you know, you get to work</p> <p>14 at X number of time in the morning; you do this,</p> <p>15 this, and this.</p> <p>16 The job description is kind of generic on</p> <p>17 what you need to handle in your area of</p> <p>18 responsibility.</p> <p>19 Q. Let's take you as an example. Is your job</p> <p>20 description as complex operations manager</p> <p>21 different than the job description of Mr. Stevens</p> <p>22 as first processing plant manager?</p> <p>23 A. I don't know that because I'm not that</p> | <p>1 A. Correct.</p> <p>2 Q. And who does he report to?</p> <p>3 A. Tim Lawson.</p> <p>4 Q. What is his job?</p> <p>5 A. I don't know his correct title.</p> <p>6 Q. Where is he located?</p> <p>7 A. Huntsville, Alabama.</p> <p>8 Q. And you called that a division office,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And what geographical territory does it</p> <p>12 cover?</p> <p>13 A. All poultry in the U.S.</p> <p>14 Q. How many plants is that?</p> <p>15 A. I honestly don't know the total correct</p> <p>16 answer to that exactly.</p> <p>17 Q. Give me your best estimate.</p> <p>18 A. I'm guessing seven or eight total plants,</p> <p>19 but that's a guess.</p> <p>20 Q. All right. And what did you say the</p> <p>21 fellow's name in Huntsville is? I didn't write it</p> <p>22 down.</p> <p>23 A. Tim Lawson.</p>                                                                                                                                                                                                                                                |

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1 Q. Who does he report to?  
 2 A. Keith Lewis.  
 3 Q. What's his job?  
 4 A. I don't know his exact job title.  
 5 Q. Where is he located?  
 6 A. Huntsville, Alabama.  
 7 Q. And who does Mr. Lewis report to?  
 8 A. He reports to Philadelphia.  
 9 Q. Who?  
 10 A. I believe his name is Jerry Dean. I'm not  
 11 for sure.  
 12 Q. Do you know his title?  
 13 A. I sure don't.  
 14 Q. What is in Philadelphia?  
 15 A. Our corporate office.  
 16 Q. All right. Other than your job description,  
 17 are there any other documents that would describe  
 18 your duties and responsibilities?  
 19 A. Not as I'm aware of.  
 20 Q. Who would be knowledgeable as to whether  
 21 there are job descriptions for hourly employees?  
 22 A. I can't really answer that. I don't know.  
 23 Q. The quality assurance department, does it

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1 have job descriptions?  
 2 A. Can't answer that; I don't know.  
 3 Q. Has there been any period of time that all  
 4 production employees have been required to wear  
 5 safety glasses?  
 6 A. Yes.  
 7 Q. What period was that?  
 8 A. I don't know the dates.  
 9 Q. Give me your best estimate.  
 10 A. It's been -- we stopped everybody from  
 11 wearing them probably, a guess, a total guess, a  
 12 year ago. And I don't know when we started. I  
 13 don't have a clue.  
 14 Q. At the time Equity Group took over in March  
 15 of 2004, were safety glasses required?  
 16 A. I don't remember.  
 17 Q. Let's look at Exhibit 7. This is called  
 18 "New Hire Allergen Awareness Training."  
 19 Are you familiar with this document?  
 20 A. No.  
 21 Q. Who would be?  
 22 A. Can't answer that; I don't have a clue.  
 23 Q. Do you know what department this originates

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1 from?  
 2 A. No.  
 3 Q. Is there anything within that New Hire  
 4 Allergen Awareness Training that appears not to  
 5 apply to your two plants?  
 6 A. I'm not familiar with it at all.  
 7 Q. Okay. I know you're not familiar with the  
 8 document, but the items listed, are you familiar  
 9 with allergen control programs at your two plants?  
 10 A. No.  
 11 Q. All right. The next page of that Exhibit 7  
 12 is called "New Hire HACCP Training." Who's in  
 13 charge of the HACCP program or policy?  
 14 A. Butch White. It falls under his umbrella.  
 15 Q. And does this New Hire HACCP Training apply  
 16 to your two plants?  
 17 A. Yes.  
 18 Q. And has it applied at all times since March  
 19 of 2004?  
 20 A. Yes.  
 21 Q. The purpose of the -- well, let's first get  
 22 this identified.  
 23 HACCP stands for Hazard Analysis Critical

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1 Control Points, correct?  
 2 A. Yes.  
 3 Q. And the purpose of that Hazard Analysis  
 4 Critical Control Points Program is to prevent  
 5 contamination of poultry products, correct?  
 6 A. Food control based on prevention, yes.  
 7 Q. Now let's look at Exhibit 8. I've not  
 8 produced all in Exhibit 8, the pages; but here's  
 9 the whole book if you want it of the employee  
 10 handbook.  
 11 Looking at the pages that I've excerpted out  
 12 of the employee handbook, have they been in full  
 13 force and effect since March of 2004?  
 14 MR. WIGGINS: And for the record, those  
 15 excerpted are Exhibit 8.  
 16 (The witness examines the  
 17 document.)  
 18 A. I don't know how long this has been in place  
 19 because I'm not familiar with this book, but it  
 20 looks like, just scanning over a few pages, this  
 21 is something we still do. And I don't know how  
 22 long we've been following this. Has this handbook  
 23 been changed? I don't know.

18 (Pages 66 to 69)

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1 Q. All right. The handbook we've been given,  
2 is E 516 through 571. And we weren't given a new  
3 one today.

4 Do you know if there's ever been another  
5 employee handbook besides this one that I'm  
6 placing in front of you?

7 A. I don't know.

8 Q. Who would know that?

9 A. HR is the one that hands these out and has  
10 them printed. I don't know.

11 Q. Anyone in particular in charge of that in  
12 HR?

13 A. Not as I'm aware of. I don't know.

14 Q. Now, look at page 534. It's called "Work  
15 Rules and Regulations" in the employee handbook,  
16 correct? It's actually page 17 in the employee  
17 handbook, but Bates numbered 534. It got cut off  
18 there.

19 Page 17, at the bottom, says "Work Rules and  
20 Regulations," correct?

21 A. That's what it says there.

22 Q. And it says that you can be disciplined for  
23 failing to follow these rules and regulations,

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1 correct?

2 A. It says the company expects you to follow  
3 them, yes.

4 Q. All right. And employees that fail to  
5 follow these rules and regulations are subject to  
6 discipline, correct?

7 A. Uh-huh.

8 Q. Is that right?

9 A. Yes, sir. That's what it says.

10 Q. Okay. Now, turning to the next page, look  
11 at No. 11. One item that employees are subject to  
12 discipline or discharged for is, in No. 11,  
13 "Failure to wear safety equipment and/or required  
14 clothing/uniform," correct?

15 A. Yes, that's what it says.

16 Q. It also says, "In addition to any prescribed  
17 discipline, an employee violating this policy may  
18 be forced to leave the facility until the company  
19 dress code is met," correct?

20 A. Correct.

21 Q. Does quality assurance monitor employees'  
22 use of safety equipment and required  
23 clothing/uniforms?

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1 A. Quality assurance monitors that; supervisors  
2 monitor that; superintendents monitor that.

3 Q. Okay. And does quality assurance have  
4 employees at the start of a shift there at the  
5 production room entrance to make sure employees  
6 have their protective equipment on?

7 A. I can't answer that.

8 Q. Does anyone stand there at the door when  
9 they come through to make sure people are properly  
10 donning their protective gear and equipment and  
11 sanitizing themselves?

12 A. Not as I'm aware of. But we don't sanitize  
13 ourselves entering the room.

14 Q. Okay. No. 13 of that same rules and  
15 regulations policy says that one item an employee  
16 can be disciplined or discharged for is, quote,  
17 Failure of an employee to be at his/her appointed  
18 workstation and ready to work at his/her scheduled  
19 starting time, correct?

20 A. Correct.

21 Q. And that's been in force and effect, to your  
22 knowledge, since March 2004?

23 A. Yes, as far as I can remember.

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1 Q. And another item since March 2004 that  
2 employees can be disciplined for is violation of  
3 safety rules and/or policies, correct?

4 A. Yes.

5 Q. All right. Now turn over to page 40 of the  
6 employee handbook.

7 A. (Witness complies.)

8 Q. Are these the safety rules that are referred  
9 to in No. 18 that you can be disciplined and  
10 discharged for? It's called "General Safety  
11 Rules."

12 (The witness examines the  
13 document.)

14 A. To the best of my knowledge.

15 Q. All right. And when you sat there and read  
16 through the General Safety Rules, you didn't  
17 identify any that have not been required of  
18 employees since March of 2004, did you?

19 A. No. On page 40.

20 Q. Well, the safety rules are on page 40 to 42,  
21 correct?

22 A. I need to read 41 and 42.

23 Q. Okay.

19 (Pages 70 to 73)

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| Page 74                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Page 76                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>1 (The witness examines the<br/>2 document.)<br/>3 A. This must be an old one because this has<br/>4 changed.<br/>5 Q. What's changed?<br/>6 A. This says, "Wash hands and arms<br/>7 thoroughly..."<br/>8 Q. Which number?<br/>9 A. No. 18. We don't wash arms. Our current<br/>10 policy says to wash hands. I know that one's<br/>11 changed.<br/>12 Also, it says, "No equipment will be worn<br/>13 outside of work areas." You can wear hair nets,<br/>14 beard nets, earplugs outside of work areas. You<br/>15 can't wear them outside, but you can wear them<br/>16 outside of production areas.<br/>17 It also states here that, "Boots are not to<br/>18 be worn outside of plant." You can wear your<br/>19 boots to and from work.<br/>20 That's the changes I see at this point.<br/>21 Q. Okay. Now, looking at the cover of this<br/>22 employee handbook from which those safety rules at<br/>23 pages 40 to 42 come, it's called Keystone Foods</p>             | <p>1 Q. Is there a document that changed any part of<br/>2 the employee handbook?<br/>3 A. I don't know that.<br/>4 Q. Is there a document that reflects any<br/>5 non-enforcement of certain items in the employee<br/>6 handbook?<br/>7 A. I don't know the answer to that.<br/>8 Q. All right. Now, identify the numbers in<br/>9 pages 40 to 42, General Safety Rules, that you<br/>10 were speaking of that you don't think are<br/>11 currently in force.<br/>12 A. No. 18, No. 20. That's the changes I see.<br/>13 Q. Okay. Now, let's do No. 20 first. That<br/>14 says, for the record, "No equipment will be worn<br/>15 outside of work areas. Boots are not to be worn<br/>16 outside of plant."<br/>17 Now, you say that's a true statement except<br/>18 for hair nets and earplugs and --<br/>19 A. Beard nets.<br/>20 Q. -- beard nets, correct?<br/>21 A. Correct. And safety glasses for the<br/>22 employees that wear safety glasses.<br/>23 Q. But for all other equipment, they're not to</p> |
| Page 75                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Page 77                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>1 Equity Group Eufaula Division Employee Handbook,<br/>2 correct?<br/>3 A. Uh-huh.<br/>4 Q. Is that right?<br/>5 A. Yes.<br/>6 Q. So we know then that at some point in time<br/>7 those rules you just listed as not currently being<br/>8 followed were in force and effect, correct?<br/>9 A. We've never enforced no equipment to be<br/>10 worn. We've always allowed hair nets, beard nets,<br/>11 and earplugs to be worn outside the production<br/>12 area. When they were wearing safety glasses, they<br/>13 could wear them to and from work.<br/>14 At one time, we were requiring them to put<br/>15 boots on after they got to work and take them off<br/>16 before they left.<br/>17 Q. What time period was that?<br/>18 A. I cannot answer that. I don't have a clue.<br/>19 Q. Can you tell us if it was more than a year<br/>20 ago?<br/>21 A. I can't answer that. I do not have a clue.<br/>22 Q. Who would know?<br/>23 A. I can't answer that either.</p> | <p>1 be worn outside of the work area, correct?<br/>2 A. Yes. Back up and ask me that question<br/>3 again. All other equipment?<br/>4 Q. Yes.<br/>5 A. Smocks are to be took off before exiting the<br/>6 production area.<br/>7 Q. All right.<br/>8 A. And then their rubber gloves are took off<br/>9 before exiting the production area, and put back<br/>10 on after they get in the production area.<br/>11 Q. All right.<br/>12 A. Arm guards are put on normally after they<br/>13 enter the production area. And if they wear<br/>14 sleeves, they can put them on any time, the<br/>15 production area or going to the production area.<br/>16 Q. Turn over to Exhibit 12, page 21. This is<br/>17 the contract with the union effective March 1,<br/>18 2004, to March 1, 2008.<br/>19 There in Section 13.4, is that a complete<br/>20 list of all the equipment that the employees are<br/>21 provided?<br/>22 MR. ROSENTHAL: What page did you<br/>23 reference?</p>                                   |

20 (Pages 74 to 77)

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1 MR. WIGGINS: 21.  
 2 A. I'm looking at the wrong number.  
 3 This is a list of equipment that we issue to  
 4 new employees. And we've got this listed in our  
 5 union negotiations on when they can come back and  
 6 get replacement equipment. But not all employees  
 7 are required to get all this equipment.  
 8 Q. All right. But the contract says, for the  
 9 record, in Section 13.4, "Supplies will be  
 10 furnished to new employees, where required, in  
 11 accordance with company procedures as follows..."  
 12 and then lists three smocks, arm guards, cutting  
 13 glove, hair net, beard net, blue gloves, cotton  
 14 gloves, earplugs, apron - heavy duty, and sleeves,  
 15 correct?  
 16 A. Yes. In this contract, some of these was  
 17 changed. At some time, and I don't know what  
 18 time, we did not issue three smocks. They come in  
 19 and got a new, clean smock every day. They didn't  
 20 have smocks; they just come in and got one out of  
 21 the supply room.  
 22 Q. Do you know when that began?  
 23 A. No.

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1 Q. Do you know any documents that would tell  
 2 us?  
 3 A. No, I don't.  
 4 Q. All right. Now, this list though that I  
 5 just read to you and that you have in front of you  
 6 from Section 13.4 of the collective bargaining  
 7 agreement, is that a complete list of the  
 8 equipment employees are furnished by the company?  
 9 A. No.  
 10 Q. What's missing?  
 11 A. If we require safety glasses, they are also  
 12 issued by the company.  
 13 Q. Okay. Anything else to make that a complete  
 14 list?  
 15 A. I don't see boots on here.  
 16 Q. Okay. Anything else?  
 17 A. Not that I'm aware of.  
 18 Q. Okay. So with the addition of boots and  
 19 safety glasses, Section 13.4 lists all the  
 20 equipment that employees are provided upon hire,  
 21 correct?  
 22 A. Where required. As this states,  
 23 "...furnished to new employees, where required..."

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1 Not all employees get this -- got this. This is  
 2 changed, because this contract ended in March of  
 3 this year, I believe.  
 4 Q. Okay. We'll get to your new contract. But  
 5 during the period of this contract, this was the  
 6 contractual agreement, correct?  
 7 A. Yes. But "Supplies will be furnished to new  
 8 employees, where required..." I want to make that  
 9 clear, "...where required..."  
 10 Q. Yeah, I understand. Is there any document  
 11 that tells us where it is required?  
 12 A. Not that I'm aware of.  
 13 Q. Are there any of these items in Section 13.4  
 14 that are not provided to debone employees --  
 15 employees in the debone department?  
 16 A. Not that I'm aware of.  
 17 Q. Are there any of these items in Section 13.4  
 18 of the collective bargaining agreement that are  
 19 not supplied to evisceration employees?  
 20 A. Well, you've got positions that don't  
 21 require arm guards, don't require cutting gloves;  
 22 so saying all of debone, all of evis, there are  
 23 employees in those two departments that does not

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1 require all of these supplies.  
 2 Q. Okay. Let's put aside arm guards and  
 3 cutting gloves. Are all the other items in  
 4 Section 13.4, including boots and safety glasses  
 5 -- no, leave off safety glasses. Let me start  
 6 over.  
 7 Other than arm guards, cutting gloves, and  
 8 safety glasses, are all the items in Section 13.4  
 9 supplied to hourly employees by the company in  
 10 both your plants, in all departments?  
 11 A. No. Aprons are not.  
 12 Q. Okay. Which employees receive aprons?  
 13 A. I can't answer that. None of them are  
 14 required. That's up to them if they want to wear  
 15 them, as long as they've got their smock on.  
 16 Q. We're going to get to that. I'm just trying  
 17 to get right now what they're provided.  
 18 Let's take debone department employees, for  
 19 example. Are they provided aprons?  
 20 A. What position in debone?  
 21 Q. First, are any employees in debone provided  
 22 aprons?  
 23 A. They can get aprons if they'd like to.

21 (Pages 78 to 81)

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1 Q. Are there any employees that are prohibited  
2 from getting aprons from the company?  
3 A. Not that I'm aware of.  
4 Q. Where do they get the aprons?  
5 A. Supply room.  
6 Q. Okay. Do you furnish employees a standard  
7 package of items at the beginning of each week?  
8 A. I honestly don't know how the supply room  
9 and the management team handles that. I don't  
10 know how they do that.  
11 Q. Do you know who would know that?  
12 A. I sure don't.  
13 Q. Do you know if there are any standard  
14 operating procedures or other documents that  
15 describe how and when protective equipment is  
16 issued?  
17 A. I'm not aware of that. We go by the union  
18 contract.  
19 Q. Okay. Do you know what protective equipment  
20 is provided to employees initially?  
21 A. It's according to the position the employee  
22 holds. All employees are required to wear  
23 earplugs.

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1 Q. Are all employees required to wear hair nets  
2 and beard nets?  
3 A. Yes.  
4 Q. Are all employees required to wear smocks?  
5 A. No.  
6 Q. All employees in the production area are  
7 required to wear smocks?  
8 A. Yes.  
9 Q. All right. Let's look back at page 40 of  
10 the Exhibit 8, the employee handbook.  
11 A. (Witness complies.)  
12 Q. One of the items for which an employee can  
13 be disciplined or discharged is No. 3 of the  
14 safety rules which says, "Personal protective  
15 equipment, which is provided initially by the  
16 company, must be worn," correct?  
17 A. Yes.  
18 Q. All right. Now let's look at No. 18. You  
19 identified that as one you said is not fully  
20 enforced. I think what you told me is that No. 18  
21 is an accurate statement of what employees are  
22 required to perform subject to discharge or  
23 discipline, except for washing of arms, correct?

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1 A. Correct.  
2 Q. So then was there a period of time that you  
3 did require washing of arms?  
4 A. I do not remember. I don't know.  
5 Q. Who would know that?  
6 A. I don't know.  
7 Q. Your first line supervisor would probably  
8 know that, wouldn't they?  
9 A. Should, I would say. I don't know. I can't  
10 answer that.  
11 Q. All right. But at all times since March of  
12 2004, employees could be disciplined or discharged  
13 for not washing hands thoroughly with soap and  
14 water before and after using bathroom facilities,  
15 correct?  
16 A. Yes.  
17 Q. Now let's go to Exhibit 9. This is the  
18 Employee Orientation Manual. You brought a new  
19 one that we marked earlier.  
20 Page 1 is an agenda of a day of training or  
21 orientation for new hires, correct?  
22 A. That's what it looks like.  
23 Q. All right. And it says between 1:00 and

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1 1:30, the employees are shown a tape about the QA,  
2 HACCP, GMP's, SSOPs, and animal welfare, correct?  
3 A. That's what it says.  
4 Q. Have you ever seen that tape?  
5 A. No.  
6 Q. Do you know what's covered in the tape?  
7 A. No.  
8 Q. Then, at 1:45, it says, among other things,  
9 the employees are given training in ergonomics  
10 presentation and exercises. What does that mean?  
11 A. I have no idea. I've never sat through a  
12 new hire orientation for hourly associates.  
13 Q. Are you familiar with what ergonomic  
14 exercises employees are trained to do?  
15 A. No.  
16 Q. Do you know anything about ergonomic  
17 exercises at the two plants you supervise?  
18 A. No.  
19 Q. Has there been a period where employees do  
20 calisthenics?  
21 A. What's calisthenics? I don't understand.  
22 Q. Exercise. Physical exercise.  
23 A. There has been some time when they did do

22 (Pages 82 to 85)

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1 some exercise in the debone department alone.  
 2 Q. What period of time?  
 3 A. I don't know the answer to that.  
 4 Q. What did they do?  
 5 A. I don't know the answer to that.  
 6 Q. Are there any documents that describe it?  
 7 A. Not as I'm aware of. I don't know.  
 8 Q. Are there any standard operating procedures  
 9 regarding that exercise?  
 10 A. I don't know the answer to that.  
 11 Q. All right. Then, at 3:00, the employees are  
 12 given training in several things, including PPE  
 13 use, correct?  
 14 A. That's what this says.  
 15 Q. And it says there's a tape on that subject.  
 16 Have you seen that tape?  
 17 A. No. Never been through a new hire  
 18 orientation for hourly associates.  
 19 Q. What about the safety representative that's  
 20 doing the training on the PPE? Do you know who  
 21 that is?  
 22 A. I don't know who that is.  
 23 Q. Now, PPE means personal protective

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1 equipment; is that correct?  
 2 A. Yes.  
 3 Q. And what is personal protective equipment?  
 4 What items?  
 5 A. It's according to what we're talking about.  
 6 In this scenario, it was for safety; it's for  
 7 hazardous communications and material handling.  
 8 Q. So in that context, what PPE exists?  
 9 A. I don't know the answer to that. I've never  
 10 been through a new hire orientation.  
 11 Q. All right. Do you know anything about this  
 12 hearing protection training that's at 3:45, listed  
 13 on this document?  
 14 A. No. As I stated, I've never been through a  
 15 new hire orientation, so I don't know what goes  
 16 on.  
 17 Q. You've never had any hearing protection  
 18 training?  
 19 A. Yes, I have, but I've never been through  
 20 this.  
 21 Q. Okay. Have you ever had any ergonomics  
 22 exercise training?  
 23 A. No.

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1 Q. Now, look through the items that I've  
 2 excerpted out of your Employee Orientation Manual,  
 3 in Exhibit 9, and tell me are there any of those  
 4 items that have not been in full force and effect  
 5 or the employees have not been required to comply  
 6 with since March of 2004.  
 7 A. You're talking about these items?  
 8 Q. Yes. Just those pages out of the  
 9 orientation manual that are in Exhibit 9.  
 10 A. Well, I'm not familiar with the orientation  
 11 manual because, as I stated earlier, I've never  
 12 been through an orientation for hourly associates,  
 13 so I don't know what they do during that process.  
 14 If you'd like me to read these pages, I'll  
 15 be more than glad to, but I still don't know if I  
 16 can answer your question.  
 17 Q. Okay. Well, put aside what they're told in  
 18 the orientation. Someone else will have to tell  
 19 us that, apparently.  
 20 But in terms of the operation of the two  
 21 plants on a day-to-day basis, are there any of  
 22 those items that are in Exhibit 9 that employees  
 23 have not been required to comply with since March

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1 2004?  
 2 A. Okay. The first sheet, the attendance  
 3 policy, I'm not that familiar with the attendance  
 4 policy because I don't do attendance on hourly  
 5 associates. So to give you an answer on the first  
 6 page, I don't know because I don't do the  
 7 attendance.  
 8 Q. Okay. Go to the next document, which is  
 9 "Further Processing GMP's."  
 10 Are there any of those items that employees  
 11 have not been required to comply with since March  
 12 of 2004? at any point in time since March of 2004.  
 13 A. Looks like page 33, I believe we're doing  
 14 that on page 33.  
 15 Q. All right. Look at page 34, which has just  
 16 a few more paragraphs.  
 17 A. It looks like we are doing this on page 34  
 18 and 33.  
 19 Q. Okay. So this Further Processing GMP's,  
 20 which lists 24 numbered sentences of requirements,  
 21 employees have been required to comply with those  
 22 items since March of 2004 at all points in time?  
 23 A. To the best of my knowledge.

23 (Pages 86 to 89)

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1 Q. All right. Let's go to the next document in  
 2 the orientation manual, Exhibit 9, which is Bates  
 3 number E 75, page 35 of the manual, called  
 4 "Quality Assurance."  
 5 Has this been in force and effect at all  
 6 times since March 2004?  
 7 A. I can't answer that; I'm not over quality  
 8 assurance.  
 9 Q. Looking at the items themselves, let's take  
 10 the first section called "Seven Principles of  
 11 HACCP."  
 12 Is that an accurate description of what the  
 13 company requires in term of identifying and  
 14 monitoring food safety hazards?  
 15 A. I can't answer that because I'm not over  
 16 HACCP or quality assurance.  
 17 Q. Okay. Look at the second section called  
 18 "Standard Sanitation Operating Procedures" with an  
 19 acronym of "SSOPs." Are you familiar with those?  
 20 A. I'm familiar with what an SSOP is. I'm not  
 21 familiar with this because I didn't write this  
 22 document and I'm not over this area.  
 23 Q. Is there a standard sanitation operational

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1 procedure for each of those five items?  
 2 A. I can't answer that. I don't know.  
 3 Q. Then the next section is called "Standard  
 4 Operational Procedures SOPs." Is there a document  
 5 that has an SOP for each of those eight items?  
 6 A. I can't answer that. I don't know.  
 7 Q. One of those items, No. 7, is "Washing hands  
 8 properly." Have you ever seen an SOP on washing  
 9 hands properly?  
 10 A. No, I haven't.  
 11 Q. Who would know if there is an SOP on that  
 12 subject?  
 13 A. I can't answer that. I don't know.  
 14 Q. Turn over to page 39 of the orientation  
 15 manual.  
 16 A. (Witness complies.)  
 17 Q. These items listed, the five bullet points,  
 18 have been required of employees since March of  
 19 2004?  
 20 A. Yes. We ask our people to do this, but I've  
 21 never seen this summary, per se, here.  
 22 Q. It accurately summarizes what employees are  
 23 required to do since March of 2004?

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1 A. Yes.  
 2 Q. Let's turn to the next page in Exhibit 9,  
 3 which is page 40 of the operations (sic) manual.  
 4 And specifically No. 30, there at the top of the  
 5 page, says, "All employees will follow department  
 6 safety rules, policies and procedures. Failure to  
 7 follow safety rules will result in disciplinary  
 8 action up to and including termination."  
 9 Has that always been the policy since March  
 10 of 2004?  
 11 MR. ROSENTHAL: I'm going to object to  
 12 that term. I think you referenced this as the  
 13 operations manual; I believe we're still in the  
 14 orientation manual.  
 15 MR. WIGGINS: Okay. I meant  
 16 orientation manual.  
 17 A. I don't know about the orientation manual.  
 18 We do require people to follow our safety rules,  
 19 policies and procedures.  
 20 Q. All right. Turn to page 41 of the  
 21 orientation manual under "Sanitation Safety  
 22 Rules."  
 23 A. (Witness complies.)

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1 Q. It says, No. 2, "Always wear rain pant legs  
 2 outside the boot." What does that mean?  
 3 A. You wear your rain pants on the outside of  
 4 your boots where chemicals can't get in your  
 5 boots.  
 6 Q. And does the company furnish the rain pants?  
 7 A. Yes.  
 8 Q. Who is that furnished to?  
 9 A. Sanitation employees.  
 10 Q. All right. How many employees do you have  
 11 in sanitation?  
 12 A. I don't know the exact number.  
 13 Q. Are the employees required to wear their  
 14 rain pants when they're in the production area  
 15 doing the sanitation work?  
 16 A. They wear them to home and from home if  
 17 they'd like.  
 18 Q. But they're required to have them on in the  
 19 production area?  
 20 A. Yes.  
 21 Q. Okay. Now look at the bottom of that page.  
 22 It's called, "Three Day Suspension Pending  
 23 Investigation/Final Notice." It lists five bullet

24 (Pages 90 to 93)

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1 points.  
 2 Is that an accurate description of what will  
 3 get a three-day suspension pending  
 4 investigation/final notice given to an employee  
 5 for each of those items?  
 6 A. I don't know if that's accurate now with HR  
 7 what steps they follow in disciplinary action. I  
 8 don't know if that is the steps they do follow at  
 9 this time.  
 10 Q. Now let's look at the last bullet point. It  
 11 is accurate since March 2004, isn't it, that you  
 12 can get a three-day suspension pending  
 13 investigation if you, quote, Failure to wear or  
 14 properly wear required personal protective  
 15 equipment, correct?  
 16 A. That's what it says.  
 17 Q. And that's been the practice?  
 18 A. Can't answer that.  
 19 Q. You don't get involved in disciplining  
 20 employees on a three-day suspension?  
 21 A. No.  
 22 Q. Who does?  
 23 A. HR, human resources.

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1 Q. Are they the decision maker as to whether an  
 2 employee will be put on a suspension?  
 3 A. They are, with the employee's manager.  
 4 Q. So if a first line supervisor saw an  
 5 employee not complying with the personal  
 6 protective equipment rules, would they have the  
 7 authority to discipline the employee themselves?  
 8 A. All disciplinary action goes through HR  
 9 department, all suspensions. And that's what we  
 10 were talking about here, three-day suspensions.  
 11 Q. Okay. The first line supervisor can  
 12 initiate the suspension, but it has to be approved  
 13 by human resources?  
 14 A. Yeah. They go up to HR and discuss what  
 15 happened, and they make a decision together.  
 16 Q. The first line supervisor and the HR make a  
 17 joint decision?  
 18 A. Yes.  
 19 Q. Who in HR has responsibility for that?  
 20 A. HR manager.  
 21 Q. But what's the person's name?  
 22 A. What shift are you talking about?  
 23 Q. Each shift. Tell me their names.

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1 A. You've got Kathy Gilmore can make that  
 2 decision; you've got Dante Rogers could make that  
 3 decision; you've got the one on night shift, and I  
 4 don't know his full name, Julio, can make that  
 5 decision; Jim Bice, as the complex QA manager, can  
 6 make that decision.  
 7 So there's several in HR that has the  
 8 ability to make that decision, along with the  
 9 management person.  
 10 Q. All right. Let's look at page 47 of the  
 11 orientation manual in Exhibit 9. It's called "How  
 12 to Use Plugs." This is referring to earplugs,  
 13 correct?  
 14 A. I guess. First time I've ever seen it.  
 15 Q. All right. But is this an accurate  
 16 statement of the company policy and practice --  
 17 A. I can't answer that.  
 18 Q. Well, I wasn't finished yet.  
 19 A. Okay.  
 20 Q. Since March of 2004, has it been a  
 21 requirement of employees to comply with the  
 22 following sentence: "Your hands and plugs should  
 23 be clean before you put the plugs in your ears"?

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1 A. I can't answer that because I don't never  
 2 see no one checking earplugs and ears to see if  
 3 they're clean -- or hands. I'm sorry.  
 4 Q. Do you have any reason to believe that this  
 5 statement in the orientation manual that your  
 6 hands and earplugs should be clean before you put  
 7 the plugs in your ears is not something that the  
 8 employees are trained to do?  
 9 A. As I said, I've never been through a new  
 10 hire orientation, so I don't know what goes on in  
 11 a new hire orientation. I don't know if they  
 12 train them. I don't know.  
 13 Q. I understand that. But do you have any  
 14 reason to believe that this part of the  
 15 orientation manual is not in fact part of the  
 16 training employees are given?  
 17 A. I don't know.  
 18 Q. Okay. Turn to page 51 of the orientation  
 19 manual.  
 20 A. (Witness complies.)  
 21 Q. It has "General PPE Information" at the top.  
 22 This document is called "Personal Protective  
 23 Equipment."

25 (Pages 94 to 97)

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1 At the second bullet point, it lists this  
 2 requirement: "Keep PPE clean and sanitary."  
 3 Has that always been a requirement that  
 4 employees are expected to comply with since March  
 5 of 2004?  
 6 A. I can't answer that on personal protective  
 7 equipment. You would think they would like to;  
 8 it's their ears they're putting the earplugs in.  
 9 Q. All right. It defines here the personal  
 10 protective equipment in the following way; I want  
 11 to see if you agree with this way it defines it.  
 12 It says, quote, Personal protective equipment is  
 13 any piece of equipment, article of clothing, or  
 14 items deemed necessary for the health and safety  
 15 of employees, prevention of injuries, loss of life  
 16 or limb, or disease while employees perform their  
 17 daily job assignments as prescribed.  
 18 Do you agree with that?  
 19 A. Yes.  
 20 Q. What are those items?  
 21 A. As in?  
 22 Q. What items of personal protective equipment  
 23 exist at the two plants?

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1 A. It's according to what you're doing. I  
 2 mean, you're talking about production employees  
 3 that uses a -- I mean, give me a particular job or  
 4 a position, and I'll tell you what the PPE is for  
 5 that job.  
 6 Q. Is there a document that tells us?  
 7 A. No, not that I'm aware of. I don't know.  
 8 Q. Are you able to catalog for every job the  
 9 PPE that's required?  
 10 A. Not that I'm aware of.  
 11 Q. One item on this document, the Employee  
 12 Orientation Manual, says, at page 51, "Wash hands  
 13 before inserting earplugs."  
 14 Has that been a requirement of employees  
 15 since March of 2004?  
 16 A. Not that I'm aware of.  
 17 Q. Do you have any reason to believe that  
 18 that's something employees are not trained to do?  
 19 A. I don't know. I don't know what they're  
 20 trained in new hire orientation.  
 21 Q. And then the next bullet point says, "Any  
 22 PPE other than that issued by Equity Group Eufaula  
 23 Division must be approved through the safety

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1 office."  
 2 Has that been a policy and practice followed  
 3 since March of 2004?  
 4 A. I'm not aware of it. I don't know.  
 5 Q. Do you know if employees are allowed to wear  
 6 their own smocks? Bring them from home and wear  
 7 their own?  
 8 A. No, they're not allowed to wear their own  
 9 smocks.  
 10 Q. Do you know of any items that employees are  
 11 allowed to furnish themselves as a substitute for  
 12 the ones that the company furnishes to them?  
 13 A. Well, it states here that if they do, they  
 14 need to get it approved through the safety office.  
 15 This is talking about safety equipment, from what  
 16 I'm reading here. Personal protective equipment  
 17 is not a smock.  
 18 Q. You don't consider a smock part of the  
 19 personal protective equipment?  
 20 A. No. We're talking safety here.  
 21 Q. All right. Well, let's look back at the  
 22 list of items in the collective bargaining  
 23 agreement. Look at Exhibit 12 again, page 21.

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1 A. (Witness complies.)  
 2 Q. Does the company consider hair nets and  
 3 beard net to be personal protective equipment?  
 4 A. It doesn't state that here.  
 5 Q. But does the company, in its operations,  
 6 consider hair nets and beard nets to be personal  
 7 protective equipment?  
 8 A. Not that I'm aware of.  
 9 Q. Does the company consider blue gloves to be  
 10 personal protective equipment?  
 11 A. Not that I'm aware of.  
 12 Q. Does the company consider cotton gloves to  
 13 be personal protective equipment?  
 14 A. Not that I'm aware of.  
 15 Q. Does the company consider aprons or heavy  
 16 duty aprons to be personal protective equipment?  
 17 A. Not that I'm aware of.  
 18 Q. What about sleeves? Are they considered  
 19 personal protective equipment by the company?  
 20 A. Not as I'm aware of.  
 21 Q. And I think you've already said smocks are  
 22 not considered personal protective equipment,  
 23 correct?

26 (Pages 98 to 101)

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| Page 102                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Page 104                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 A. Not for safety.</p> <p>2 Q. All right. I'm not sure what you mean.</p> <p>3 You're saying smocks don't play any role in</p> <p>4 safety?</p> <p>5 A. Correct. In human safety.</p> <p>6 Q. But are smocks considered to be personal</p> <p>7 protective equipment?</p> <p>8 A. Not in my dictionary.</p> <p>9 Q. Okay. What about boots? Are they</p> <p>10 considered personal protective equipment?</p> <p>11 A. Yes.</p> <p>12 Q. Safety glasses?</p> <p>13 A. Yes.</p> <p>14 Q. Arm guards?</p> <p>15 A. Yes.</p> <p>16 Q. Cutting gloves?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Anything else that's considered to be</p> <p>19 personal protective equipment, other than arm</p> <p>20 guards, cutting gloves, boots, and safety glasses?</p> <p>21 A. Earplugs.</p> <p>22 Q. Anything else?</p> <p>23 A. Not that I'm aware of, in a normal</p>                                                                                                                                                                                                                                                                             | <p>1 or his sense of touch decreased, that would affect</p> <p>2 his ability to perform his job, correct?</p> <p>3 A. Yes.</p> <p>4 Q. How does the company make sure that the</p> <p>5 gloves its dispensing to employees are properly</p> <p>6 fitting?</p> <p>7 A. We have different sizes; they can get</p> <p>8 whatever size they need.</p> <p>9 Q. Who determines that?</p> <p>10 A. The employee.</p> <p>11 Q. The supply room attendant hands them to them</p> <p>12 or do they go in there and get them themselves?</p> <p>13 A. The supply room gives them whatever size</p> <p>14 they need.</p> <p>15 Q. Okay. The next bullet point says, "Cold</p> <p>16 temperatures can reduce the function of the nerves</p> <p>17 and muscles. In cold temperatures, the fibers of</p> <p>18 the muscles do not work smoothly, which increases</p> <p>19 the risk of tearing fibers."</p> <p>20 Do you agree with that?</p> <p>21 A. I guess. I mean, I'm not a doctor; I don't</p> <p>22 know.</p> <p>23 Q. Do you agree that employees working in cold</p> |
| Page 103                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Page 105                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>1 production job.</p> <p>2 Q. Okay. Now, going back to the page we were</p> <p>3 on, page 51, at the bottom of that page in the</p> <p>4 orientation manual, Exhibit 9, it's got a section</p> <p>5 called "Ergonomics/Proper Lifting."</p> <p>6 Read those items and tell me are those</p> <p>7 things that employees are expected to comply with</p> <p>8 since March of 2004.</p> <p>9 (The witness examines the</p> <p>10 document.)</p> <p>11 A. This is just a brief guideline to go by on</p> <p>12 ergonomics. We don't require all our people to do</p> <p>13 all this, measure 2 inches or do these procedures,</p> <p>14 but it is a proper lifting for ergonomics that we</p> <p>15 would like for our employees to practice. Do we</p> <p>16 require it? Not that I'm aware of. I don't know.</p> <p>17 Q. Look at the bullet point that says, "Avoid</p> <p>18 improperly fitting gloves. Gloves that do not fit</p> <p>19 correctly can impede circulation and decrease the</p> <p>20 sense of touch."</p> <p>21 Do you agree with that?</p> <p>22 A. Yeah.</p> <p>23 Q. If an employee has his circulation impeded</p> | <p>1 temperatures, that can adversely affect their</p> <p>2 ability to perform their jobs in your two plants?</p> <p>3 A. Yes, without proper clothing.</p> <p>4 Q. And what areas of the plant have cold</p> <p>5 temperatures?</p> <p>6 A. Cooler.</p> <p>7 Q. Any other areas?</p> <p>8 A. And the further processing plant, the</p> <p>9 freezer.</p> <p>10 Q. What temperature are the chickens at during</p> <p>11 the processing after slaughter?</p> <p>12 A. At what point?</p> <p>13 Q. Let's take before they go to the chiller.</p> <p>14 A. 90 degrees.</p> <p>15 Q. And what about when they go past the</p> <p>16 chiller, what are they at?</p> <p>17 A. 40 degrees when they come out.</p> <p>18 Q. Is that the lowest they ever get?</p> <p>19 A. 38 to 40. I mean, I don't know exactly</p> <p>20 whatever temperature the birds are.</p> <p>21 Q. What is the temperature in the debone area?</p> <p>22 A. I don't know the answer to that. I'm</p> <p>23 guessing -- and I shouldn't guess -- but 65, 68</p>                               |

27 (Pages 102 to 105)

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1 degrees.  
 2 Q. Are there any areas of the plant colder than  
 3 that?  
 4 A. Cooler.  
 5 Q. How cold is the cooler?  
 6 A. 28 to 36 degrees.  
 7 Q. How many employees work in the cooler?  
 8 A. When you say "work in the cooler," define  
 9 "work in the cooler."  
 10 Q. Well, they're in the cooler enough to be  
 11 affected by the coldness.  
 12 A. I still don't understand your question.  
 13 Q. How many employees are going in and out of  
 14 the cooler on a regular basis?  
 15 A. I don't know the answer to that, how many  
 16 there are.  
 17 Q. Are there employees stationed so that they  
 18 have to go in the cooler as a regular part of  
 19 their job?  
 20 A. Are they stationed in the cooler or they go  
 21 in and out of the cooler?  
 22 Q. Stationed in a way that they go in and out  
 23 of the cooler frequently.

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1 A. We have employees that go in and out of the  
 2 cooler.  
 3 Q. And how many of those employees do you have?  
 4 A. I don't know the answer to that.  
 5 Q. Which employees are they?  
 6 A. Shipping employees, normally. I mean, we  
 7 may have other employees go in and out, but  
 8 shipping is one.  
 9 Q. And then this next bullet point says, "Take  
 10 mini breaks during work." That's m-i-n-i. "Take  
 11 mini breaks during work. It is helpful to pause  
 12 frequently to flex and stretch. This will improve  
 13 flexibility and improve blood-flow."  
 14 Is it permissible for employees to do that  
 15 while on paid time?  
 16 A. We need to define "mini breaks." If an  
 17 employee wants to, after a bird goes by, if they  
 18 work in a certain area, they can stop for a minute  
 19 and move.  
 20 I mean, I don't know the definition of this  
 21 question.  
 22 Q. But you think up to a minute employees would  
 23 be within their rights to --

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1 A. It's according to what position they're  
 2 working in.  
 3 Q. Do you know any positions that employees  
 4 would not be allowed to take mini breaks in order  
 5 to flex and stretch frequently?  
 6 A. Define "mini breaks." I don't know what  
 7 m-i-n-i, means, mini. As in what's the time frame  
 8 of a mini break?  
 9 Q. What would it be in your view?  
 10 A. I don't know. I mean, I don't really know  
 11 what your definition of a mini break is.  
 12 Q. Would employees be considered to be in the  
 13 wrong if they took three to five minutes?  
 14 A. Yes.  
 15 Q. Would they be considered to be in the wrong  
 16 to take a full minute?  
 17 A. According to what position they're in, where  
 18 they're at.  
 19 Q. Which positions would employees have the  
 20 right to take a minute off to frequently flex and  
 21 stretch to improve flexibility and increase  
 22 blood-flow?  
 23 A. There could be numbers of them; and I don't

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1 know all of them off the top of my head.  
 2 Q. All right. Turn over to page 71 of the  
 3 orientation manual.  
 4 By the way, let me ask you this question  
 5 before we go to page 71: If an employee took a  
 6 mini break during production time, would they  
 7 still be considered to be at work or working?  
 8 A. It goes back to the definition of mini  
 9 break.  
 10 Q. I mean, if an employee were flexing or  
 11 stretching in order to increase blood-flow, would  
 12 that be considered part of their work?  
 13 A. It's according to the definition of mini  
 14 break.  
 15 Q. Within whatever definition the company  
 16 recognizes, which you said you don't know what it  
 17 is, but within whatever the company considers a  
 18 mini break, is that considered to be work time?  
 19 MR. ROSENTHAL: Objection to the form  
 20 of the question. You can answer if you can.  
 21 A. I don't know the answer to that question.  
 22 Q. All right. Let's go to page 71 of the  
 23 orientation manual, Exhibit 9.

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| Page 110                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Page 112                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 This is called "Hazardous Communications,<br/>2 Hazardous Materials, &amp; Personal Protective<br/>3 Equipment."<br/>4 One of the bullet points says,<br/>5 "Demonstration of donning and appropriate use of<br/>6 required PPE."<br/>7 Have you ever seen that demonstration by the<br/>8 company as to how employees are supposed to don<br/>9 their PPE?<br/>10 A. No, I have not.<br/>11 Q. Who provides that demonstration of proper<br/>12 donning of PPE?<br/>13 A. I can't answer that. Probably supervisors.<br/>14 I don't know the answer to that.<br/>15 Q. Do you know if the company provides a<br/>16 demonstration of proper donning of smocks, gloves,<br/>17 aprons, or sleeves?<br/>18 A. I don't know the answer to that.<br/>19 Q. Let's go to page 80 of the orientation<br/>20 manual. It's called "Clean-Up and Safe<br/>21 Housekeeping."<br/>22 The first bullet point says, "After an<br/>23 accident, the entire area must be cleaned with</p>                                                                                          | <p>1 Is that required at the plant?<br/>2 A. I don't even know what that means.<br/>3 Q. Do you provide any disinfectants to clean<br/>4 equipment?<br/>5 A. We have disinfectants that we clean the<br/>6 plant with.<br/>7 Q. When employees clean equipment with<br/>8 disinfectant, are they considered to be working?<br/>9 A. Yes.<br/>10 Q. Is that considered to be compensable time?<br/>11 A. Paid time?<br/>12 Q. Paid time.<br/>13 A. Yes.<br/>14 Q. Next page, 81, "Common Sense Rules" is the<br/>15 heading, in the orientation manual.<br/>16 Are each of these items practices followed<br/>17 in your two plants?<br/>18 A. I can't answer that. First time I ever seen<br/>19 it.<br/>20 Q. But in terms of the practices followed in<br/>21 your two plants, is it a rule that employees must,<br/>22 quote, Wash hands and remove protective clothing<br/>23 before eating, drinking, smoking, handling contact</p>                                                                                                                             |
| Page 111                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Page 113                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>1 disinfectant."<br/>2 Give me an example of what kind of accident<br/>3 we're talking about there.<br/>4 A. I don't know. I've never seen this before.<br/>5 Q. What type of event would occur in one of<br/>6 your two plants that would require employees to<br/>7 clean with disinfectant?<br/>8 A. If an employee gets cut, for example.<br/>9 That's all I can think of because I'm not familiar<br/>10 with this document.<br/>11 Q. If an employee, in that situation of being<br/>12 cut and having to clean with disinfectant, is that<br/>13 considered to be part of their work or their paid<br/>14 time?<br/>15 A. Which employee are you talking about?<br/>16 Q. Any employee in your two plants. If they<br/>17 were -- During the period they're having to clean<br/>18 with disinfectant, is that considered to be part<br/>19 of their work and paid time?<br/>20 A. Yes.<br/>21 Q. All right. Then it says, next bullet point<br/>22 in Exhibit 9, page 80 of the orientation manual,<br/>23 that, "Cleaning equipment must be disinfected."</p> | <p>1 lenses, applying lip balm or cosmetics?<br/>2 A. Not that I'm aware of.<br/>3 Q. But you don't have any reason to believe<br/>4 that this is not an item that employees are taught<br/>5 to do in the orientation?<br/>6 A. As I said earlier, I don't know what they<br/>7 teach them in orientation. I don't know.<br/>8 Q. I know you don't know. But do you have any<br/>9 reason to suspect that this is not taught?<br/>10 MR. ROSENTHAL: Objection to the form<br/>11 of the question.<br/>12 A. I don't know.<br/>13 Q. Let's go to page 83 of the orientation<br/>14 manual called "Other Exposure Hazards." It says<br/>15 this to the employees: "Always wear gloves and<br/>16 protective apron or clothing."<br/>17 Is that an accurate statement of what<br/>18 employees have been required to do?<br/>19 A. I can't answer that, not on "explosion" of<br/>20 hazardous. I would think so on "explosion" of<br/>21 hazard, but I don't know. Exposure of hazards. I<br/>22 don't know.<br/>23 Q. Yeah. You were saying "explosion," but the</p> |

29 (Pages 110 to 113)

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| Page 114                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Page 116                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 word -- let's get the record straight.<br/> 2 The wording at the top is "Other Exposure<br/> 3 Hazards," correct?<br/> 4 A. Yes.<br/> 5 Q. What's an exposure hazard?<br/> 6 A. I don't know.<br/> 7 Q. All right. Let's look at page 91 of the<br/> 8 Employee Orientation Manual, Exhibit 9 called<br/> 9 "Good Manufacturing Practices (GMP'S)."<br/> 10 Have all of these items listed on this page<br/> 11 been requirements that employees have been<br/> 12 required to comply with since March of 2004?<br/> 13 (The witness examines the<br/> 14 document.)<br/> 15 A. The best of my knowledge.<br/> 16 Q. Okay. Let's look at Exhibit 11, the last<br/> 17 two pages which is called "7 Minute Safety<br/> 18 Training."<br/> 19 "Protect yourself with universal<br/> 20 precautions." Trainer outline 4:30.<br/> 21 Are you familiar with this type of training<br/> 22 document?<br/> 23 A. No, I'm not.</p>                                                                                                                                                                      | <p>1 smocks. That happened in this contract. I don't<br/> 2 know the time frame.<br/> 3 Q. Okay. Anything else?<br/> 4 A. To the best of my knowledge, we've followed<br/> 5 everything else that's in the contract.<br/> 6 Q. Okay. I'm going to come back to one or two<br/> 7 of those items. Let me finish these documents<br/> 8 first.<br/> 9 Look at Exhibit 13. What is this? It's<br/> 10 called "Work Rules," but I can't figure out what<br/> 11 it is.<br/> 12 A. I don't have a clue.<br/> 13 Q. Look at the first page of it and see if it<br/> 14 gives you any idea even remotely what it might be.<br/> 15 A. No, I have no idea.<br/> 16 Q. Who would probably know something about what<br/> 17 this is?<br/> 18 A. I can't answer that.<br/> 19 Q. All right. Let's look at Exhibit 14. There<br/> 20 are two letters here that were produced by the<br/> 21 company from the Department of Labor, but they're<br/> 22 not addressed to Equity Group, or anybody really.<br/> 23 But one document has got a 2007 date, E 171</p>         |
| Page 115                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Page 117                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>1 Q. Let's look at the contract. And if you need<br/> 2 the full contract, I think we have it out here for<br/> 3 you somewhere.<br/> 4 MR. ROSENTHAL: If you need it, I have<br/> 5 a copy of it.<br/> 6 Q. Do you know of any items within the<br/> 7 2004-2008 contract that were not in force or that<br/> 8 were modified in some way?<br/> 9 A. I'm not that familiar with the contract. I<br/> 10 don't remember it word for word. I'd have to look<br/> 11 through it and see.<br/> 12 Q. Well, let's take the pages that I've<br/> 13 excerpted out here in Exhibit 12 in order to<br/> 14 narrow it down a little bit. These are the pages<br/> 15 that look like they might be relevant to this<br/> 16 case.<br/> 17 Tell me, on those pages in Exhibit 12, are<br/> 18 there any parts that were not in force during the<br/> 19 2004 to 2008 contract period?<br/> 20 A. These smocks, again, as stated earlier.<br/> 21 Sometime during this contract we started<br/> 22 furnishing them smocks, and they pick them up at<br/> 23 the supply window. They was not issued three</p> | <p>1 to 172; the other one has a 2002 date, E 167 and<br/> 2 168.<br/> 3 Have you ever seen these before?<br/> 4 A. I'm not familiar with these documents.<br/> 5 Q. Have you ever had any responsibility for<br/> 6 keeping abreast of Department of Labor<br/> 7 requirements on overtime?<br/> 8 A. No.<br/> 9 Q. Have you ever had any responsibility for<br/> 10 determining compliance with overtime rules or<br/> 11 regulations?<br/> 12 A. No.<br/> 13 Q. Do you know anybody in the company who has<br/> 14 had responsibility for keeping abreast of overtime<br/> 15 requirements of the Department of Labor?<br/> 16 A. I don't have a clue. I mean, I don't know.<br/> 17 Q. Do you know who made the decision not to pay<br/> 18 employees for donning, doffing, or sanitizing<br/> 19 activities before their production line begins?<br/> 20 MR. ROSENTHAL: Objection to the form<br/> 21 of the question. You can answer.<br/> 22 A. We're just following the union contract.<br/> 23 Everything was negotiated in the union contract,</p> |

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 118</p> <p>1 and that's what we go by.</p> <p>2 Q. But do you know who made the decision that</p> <p>3 the company would not pay for donning, doffing, or</p> <p>4 sanitizing time that occurs before the production</p> <p>5 line commences?</p> <p>6 MR. ROSENTHAL: Again, I object to the</p> <p>7 form for the same reason.</p> <p>8 A. No. We were just following the union</p> <p>9 contract.</p> <p>10 Q. So then it wasn't your decision, obviously,</p> <p>11 correct?</p> <p>12 A. No. We just follow in the union contract</p> <p>13 what we negotiated with the union.</p> <p>14 Q. Who do you think is the most knowledgeable</p> <p>15 of the Department of Labor overtime requirements</p> <p>16 or regulations?</p> <p>17 A. I can't answer that.</p> <p>18 Q. Do you know anybody who's knowledgeable?</p> <p>19 A. No. I don't know who would be knowledgeable</p> <p>20 of that.</p> <p>21 Q. Let's go to the last exhibit in the book,</p> <p>22 Exhibit 15. This is called "Equity Group Eufaula</p> <p>23 Division Payroll Processing Manual."</p> | <p style="text-align: right;">Page 120</p> <p>1 A. I don't.</p> <p>2 Q. Do you know how to read this document?</p> <p>3 A. No. I don't use this document.</p> <p>4 Q. Okay. But do you know how to read it?</p> <p>5 A. I could figure it out. But, you know, I'm</p> <p>6 not familiar with it because I don't use it. I</p> <p>7 don't have hourly associates reporting to me.</p> <p>8 Q. Okay. Let's look at the next page, E 696.</p> <p>9 Do you use this type of document or are you</p> <p>10 knowledgeable of it?</p> <p>11 A. I don't use it. I mean, I know what it is.</p> <p>12 Q. What is it?</p> <p>13 A. It just tells the positions and the payroll</p> <p>14 department and the supervisor in that area is, you</p> <p>15 know, what I get out of it. I don't know what</p> <p>16 else you could use it for.</p> <p>17 Q. Let's take the first line, for example. It</p> <p>18 says, Department 21A, Security; Supervisor, J.B.</p> <p>19 Glass; Monday In/Out, and then it has an "E."</p> <p>20 Do you know what that is telling?</p> <p>21 A. No.</p> <p>22 Q. All right. Let's go to E 698 of Exhibit 15.</p> <p>23 This is called "Editing."</p> |
| <p style="text-align: right;">Page 119</p> <p>1 Do you use this?</p> <p>2 A. This manual?</p> <p>3 Q. Yes. Or any parts of the manual that we</p> <p>4 have there in that exhibit. I excerpted out</p> <p>5 certain pages. I'm just asking you about these</p> <p>6 pages.</p> <p>7 A. I don't know because I don't do time sheets.</p> <p>8 I don't know what's being used.</p> <p>9 Q. Have you ever seen this manual before?</p> <p>10 A. No.</p> <p>11 Q. The whole manual? This is the whole manual.</p> <p>12 A. No, I've never seen it.</p> <p>13 Q. This is not something that you use in your</p> <p>14 work?</p> <p>15 A. No, I don't.</p> <p>16 Q. Does anybody under you use this manual?</p> <p>17 A. I can't answer that.</p> <p>18 Q. Let's look at page 1, which is E 695 of</p> <p>19 Exhibit 15. This is called a "Time Detail"</p> <p>20 report, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you use that type of document in your</p> <p>23 work?</p>                                                                                                                                    | <p style="text-align: right;">Page 121</p> <p>1 Do you edit time sheets?</p> <p>2 A. No.</p> <p>3 Q. And do you have any knowledge about the time</p> <p>4 sheet editing process?</p> <p>5 A. No.</p> <p>6 Q. Who would be knowledgeable about the editing</p> <p>7 of time sheets?</p> <p>8 A. I can't answer that.</p> <p>9 Q. We talked earlier about if an employee is</p> <p>10 late by a minute, his payroll will be reduced by</p> <p>11 that minute. How does the company go about doing</p> <p>12 that?</p> <p>13 A. The supervisor would make the changes on the</p> <p>14 time sheets, and then payroll would make the</p> <p>15 adjustments.</p> <p>16 Q. So the supervisor would have the punch-in</p> <p>17 time, correct?</p> <p>18 A. Yes. It would be on his time sheet.</p> <p>19 Q. And where does the supervisor get the</p> <p>20 punch-in time from?</p> <p>21 A. Payroll department.</p> <p>22 Q. Is it on line where he can just dial in to</p> <p>23 it?</p>                                                                                                                                                                                   |

31 (Pages 118 to 121)

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1 A. I don't know.  
 2 Q. And what does he compare the punch-in time  
 3 to, to determine if someone is late?  
 4 A. Master card time. Start time/ending time,  
 5 according to what schedule he's on.  
 6 Q. All right. Master card time, is that the  
 7 same thing as line time?  
 8 A. Yes, I would think so.  
 9 Q. All right. Let's look back at the  
 10 collective bargaining agreement, Exhibit 12.  
 11 Let's look at page 20 of the agreement, Section  
 12 12.5 called "Line Time."  
 13 It consists of this one sentence: "All  
 14 employees will be paid according to the hours of  
 15 work indicated by the Master Line Time Card."  
 16 Correct?  
 17 A. Yes, sir.  
 18 Q. Now, you earlier told us though that that's  
 19 not true for all employees that are under the  
 20 collective bargaining agreement, correct?  
 21 A. Correct.  
 22 Q. Do you have a list of jobs or employees for  
 23 which it is not true that they will be paid

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1 according to the Master Line Time Card?  
 2 A. I do not.  
 3 Q. Can you name any such jobs?  
 4 A. Floor personnel would be one. I mean,  
 5 there's probably many, but I don't know them all.  
 6 Q. Tell us the ones you do know.  
 7 A. I honestly don't know. I know floor  
 8 personnel wouldn't because they come early and  
 9 stay late. They're on a different time than the  
 10 line card. I don't know what employees are on  
 11 what time system, whether it be master card, clock  
 12 in to clock out, so I don't know.  
 13 Q. If you were to attempt to determine that,  
 14 what documents would you want to look at?  
 15 A. I would have to just do some research. I  
 16 don't know what documents I'd look at because  
 17 right now I wouldn't know where to look.  
 18 Q. Who would be the first person you would ask  
 19 because you would think they were the most  
 20 knowledgeable?  
 21 A. Payroll department.  
 22 Q. Who in the payroll department?  
 23 A. You've got Joe Preston who's the accountant

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1 which is over the payroll department. I would ask  
 2 him who I needed to talk to, and he would send me  
 3 in the right direction.  
 4 Q. All right. Are there floor personnel in the  
 5 evisceration department?  
 6 A. I would think so, yes.  
 7 Q. Do you know how many?  
 8 A. No.  
 9 Q. Are there floor personnel in the debone  
 10 department?  
 11 A. Yeah, I think so.  
 12 Q. Is a floor person different than a setup  
 13 person?  
 14 A. I don't know the answer to that. I don't  
 15 know how they've got it staffed.  
 16 MR. WIGGINS: Now, do you have his  
 17 affidavit that he can look at?  
 18 MR. ROSENTHAL: I don't have an extra  
 19 copy of it.  
 20 MR. WIGGINS: Okay.  
 21 MR. GOULD: Would this be a good time  
 22 to take a break?  
 23 MR. WIGGINS: Sure.

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1 (A lunch recess was taken.)  
 2 (BY MR. WIGGINS)  
 3 Q. All right. We're talking about the two  
 4 plants you had under you. How many employees are  
 5 in each plant, hourly?  
 6 A. A guess, 11-, 1200 total. That's a guess.  
 7 Q. And that's in both plants together?  
 8 A. Yes.  
 9 Q. And how many in the fresh plant?  
 10 A. A guess, a thousand.  
 11 Q. All right. And are there any practices  
 12 different in the further processing plant from  
 13 those in the fresh plant?  
 14 A. Yes.  
 15 Q. All right. And are there any practices on  
 16 donning, doffing, or sanitizing that are different  
 17 between the two plants?  
 18 A. Yes.  
 19 Q. What?  
 20 A. Boot sanitation is not required at further  
 21 processing.  
 22 Q. What is the McDonald's rule?  
 23 A. On?

32 (Pages 122 to 125)

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1 Q. I've just heard referred to the McDonald's  
 2 rule. Do you know what that means?  
 3 A. No, I don't.  
 4 MR. ROSENTHAL: They don't use tomatoes  
 5 anymore.  
 6 Q. Is McDonald's a customer?  
 7 A. Yes.  
 8 Q. And is it a customer of both plants, fresh  
 9 plant and further processing?  
 10 A. The fresh plant feeds to further processing  
 11 plant.  
 12 Q. Is McDonald's one of your bigger customers?  
 13 A. Yes.  
 14 Q. Is it your biggest customer?  
 15 A. Yes.  
 16 Q. And does it have certain sanitation  
 17 requirements for you to operate under?  
 18 A. Yes.  
 19 Q. What are they?  
 20 A. I don't know all of them. I don't know.  
 21 Q. Tell me the ones you know.  
 22 A. Pretty much what we went over today on  
 23 GMP's, SSOPs. Just standard operating procedures.

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1 Q. McDonald's requires all those things?  
 2 A. They require us to produce safe food is  
 3 their requirements.  
 4 Q. All right. And all your GMP's are put  
 5 together in order to satisfy that requirement?  
 6 A. Not all of them.  
 7 Q. All right. Are most of them for that  
 8 purpose?  
 9 A. No, I wouldn't say most of them. And I  
 10 don't know how many.  
 11 Q. Okay. Do you deal with McDonald's?  
 12 A. No.  
 13 Q. Does anybody under you deal with McDonald's?  
 14 A. Nothing but produce product for them.  
 15 Q. Who does interact with McDonald's, if  
 16 anyone, at the Eufaula Division?  
 17 A. No one directly deals with McDonald's at  
 18 Eufaula Division.  
 19 Q. Okay. Who is your second biggest customer?  
 20 A. I don't know the answer to that.  
 21 Q. All right. Does the company market chicken  
 22 products to the public itself?  
 23 A. No.

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1 Q. When you said there were 11- or 1200 hourly  
 2 employees at the two plants, are all those  
 3 employees subject to the collective bargaining  
 4 agreement?  
 5 A. No.  
 6 Q. How many are subject to the collective  
 7 bargaining agreement?  
 8 A. I don't know the answer to that.  
 9 Q. Which employees are not subject to the  
 10 collective bargaining agreement?  
 11 A. QA department, maintenance department.  
 12 Q. Does QA have hourly employees?  
 13 A. Yes.  
 14 Q. How many employees are in QA?  
 15 A. I don't know the answer to that.  
 16 Q. And QA stands for quality assurance?  
 17 A. Quality assurance.  
 18 Q. Does the quality assurance department  
 19 interact with McDonald's?  
 20 A. Not directly with McDonald's, no.  
 21 Q. Does McDonald's review and sign off on or  
 22 approve your GMP's on sanitation?  
 23 A. Not at my location they don't.

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1 Q. Do you know if they do that anywhere?  
 2 A. I don't know that.  
 3 Q. How many departments are in the fresh plant?  
 4 A. I don't know. When you say "department,"  
 5 job codes? I don't know how many there are  
 6 totally.  
 7 Q. Each department has a job code?  
 8 A. Yes.  
 9 Q. Well, we had identified various areas here.  
 10 Let me see if I can get the nomenclature down.  
 11 Evisceration, that's a department, correct?  
 12 A. There could be two or three departments  
 13 within that department. Evis is an area.  
 14 Q. What departments are within the evisceration  
 15 department?  
 16 A. You've got salvage. I mean, I don't know  
 17 how they're all broke out. I honestly don't.  
 18 You've got salvage; you've got line 1, line 2;  
 19 you've got rehang; you've got picking and  
 20 receiving; you've got live shacklers.  
 21 There's a lot of them, and I don't know all  
 22 the departments, how they're broke out.  
 23 Q. Okay. And what about evisceration?

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1 A. That's what I was talking about.  
 2 Q. I'm sorry. Debone. How many departments  
 3 are within debone?  
 4 A. I honestly don't know. Several.  
 5 Q. More than five?  
 6 A. I would say so. That's a guess.  
 7 Q. Are there any documents that would reflect  
 8 the areas or departments within the debone  
 9 department?  
 10 A. I don't know the answer to that. Payroll  
 11 may have something, but I don't know that. I  
 12 don't know.  
 13 Q. What areas in the production or processing  
 14 part of the plant are not a part of debone or  
 15 evisceration?  
 16 A. DSI is not a part of either.  
 17 Q. All right. Any others?  
 18 A. Shipping, QA, HACCP, maintenance. Those are  
 19 just a few I can name.  
 20 Q. How many employees are in HACCP?  
 21 A. I don't know the answer to that.  
 22 Q. And HACCP, that's the H-A-C-C-P; is that  
 23 what that is?

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1 A. Yes.  
 2 Q. Okay. And does it have hourly employees?  
 3 Did I ask you that?  
 4 A. Yes.  
 5 Q. And you don't know how many?  
 6 A. Huh-uh.  
 7 Q. Do you know approximately how many?  
 8 A. No.  
 9 Q. How many employees are in shipping?  
 10 A. I don't know the answer to that.  
 11 Q. Give me a ballpark.  
 12 A. It's a total guess: 30.  
 13 Q. And those are all hourly?  
 14 A. Yes.  
 15 Q. And DSI. How many employees are in DSI?  
 16 A. This is an estimate: I'm guessing 160.  
 17 That's a guess; I don't know.  
 18 Q. All right. What about the cooler employees?  
 19 Is that a department?  
 20 A. Shipping.  
 21 Q. Part of shipping? And tell me again what  
 22 DSI stands for.  
 23 A. I don't really know.

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1 Q. What do they do over there?  
 2 A. Cut meat with a water jet.  
 3 Q. The back dock, is that a department?  
 4 A. Picking and receiving.  
 5 Q. So that's part of the evisceration  
 6 department?  
 7 A. It's got a department of its own, but it  
 8 falls under the first processing or evisceration  
 9 department.  
 10 Q. Now, at the further processing plant, it  
 11 doesn't have an evisceration or debone?  
 12 A. No.  
 13 Q. What does it have?  
 14 A. You've got several areas, but I don't know  
 15 all those departments either, how the people are  
 16 laid out. But you've got a prep area; you've got  
 17 a laydown area; you've got packout area.  
 18 Q. Does McDonald's conduct on-site audits of  
 19 the plant?  
 20 A. McDonald's don't.  
 21 Q. Does someone do that for McDonald's?  
 22 A. Keystone has a group out of Philadelphia  
 23 that does audits.

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1 Q. Who is that?  
 2 A. Keystone.  
 3 Q. I know. But who? What persons?  
 4 A. I don't know all of them's names. They're  
 5 out of Philadelphia. I don't know.  
 6 Q. And Keystone is the corporation that you are  
 7 employed by; is that correct?  
 8 A. As far as I know. I hope so.  
 9 Q. What's the name of this area that does  
 10 audits of your plant?  
 11 A. Keystone. They're part of the company.  
 12 Q. I mean, is it a department? Does it have a  
 13 name?  
 14 A. Food safety group.  
 15 Q. Who is the head of that group?  
 16 A. Dane Bernard, I think. And I'm not for sure  
 17 of that.  
 18 Q. How often do they audit your food safety  
 19 standards, your practices?  
 20 A. This is a guess totally; I don't know:  
 21 annually. It's according to what part of it  
 22 you're talking about auditing.  
 23 Q. What do they audit?

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## FREEDOM COURT REPORTING

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1 A. Sanitation; they audit animal welfare, pest  
2 control. Those are three that I know. They may  
3 audit more than that.

4 Q. Is the donning, doffing, and sanitizing  
5 activities done by employees with their gloves,  
6 smocks, aprons, sleeves, that type of thing, is  
7 that part of the sanitation audit?

8 A. I don't know. I don't remember. I honestly  
9 don't know.

10 Q. Do you get a report on the results of the  
11 audit?

12 A. I don't know the answer to that.

13 Q. Do you know if anybody at the plant  
14 interacts with the food safety department more  
15 than you?

16 A. QA department.

17 Q. But you don't know any outside group or  
18 entity that audits or reviews your food safety  
19 practices or your sanitation practices other than  
20 USDA?

21 A. Not that I'm aware of. They may, but I'm  
22 not aware of it.

23 Q. Now, you told me the different areas that

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1 sheet of paper and just draw further processing  
2 for me roughly.

3 A. I'm not good at drawing, sir. I'm not a  
4 draftsman.

5 Q. Yeah. Well, I understand that.

6 A. Well, I'll just point them to you on this  
7 piece of paper.

8 Q. All right.

9 A. There's one of these over here.

10 Q. What is that?

11 A. Fry line.

12 Q. Okay.

13 A. There's a marination room back here; there's  
14 another spiral freezer sitting right here; another  
15 packout area right here; forklift battery pallet  
16 jack area right here has been added on;  
17 refrigeration room has been added onto; and a  
18 hydraulic room built on here.

19 That's most of the changes that we've made  
20 in the plant.

21 Q. How many hourly employees did you have  
22 before the changes at the further processing  
23 plant?

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1 are in the plant. Write them down for me on this  
2 map that we have marked. Write each of the  
3 production areas down and show me where they're  
4 at.

5 A. Explain what you're wanting me to write  
6 down. I mean, like, parking lot, debone.

7 Q. The production area. Tell us where each  
8 thing is.

9 A. First off, this print is not up to date, so  
10 whatever I write down won't be accurate because  
11 the plant has been changed since whenever this  
12 print was made.

13 Q. When was it changed?

14 A. It was back the first of this year, I  
15 believe.

16 Q. How was it changed?

17 A. We added to it, put another line in. This  
18 plant is not nothing like what the plant is now.

19 Q. Even the old part is not laid out the same  
20 way?

21 A. Not all of it. Some of it is; some of it's  
22 not.

23 Q. All right. Well, why don't you just take a

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1 A. Total guess: 100.

2 Q. And now you've got about 200?

3 A. Yes. And them are all ballpark figures. I  
4 do not know the exact numbers.

5 Q. How many fry lines do you have?

6 A. Two.

7 Q. And before the change you had one?

8 A. Yes.

9 Q. How many marination do you have?

10 A. Explain to me what you're asking.

11 Q. You said you have a marination area over  
12 here now. Is that the only one you've got?

13 A. The marination feeds the fry room. Yes,  
14 that's the only one we have.

15 Q. How many spiral freezers do you have now?

16 A. Two.

17 Q. And you had one before the change?

18 A. Yes.

19 Q. You have two packout areas now?

20 A. Yes.

21 Q. And you had one before the change?

22 A. Yes.

23 Q. The forklift battery pallet jack area, did

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1 you have one before the change?  
 2 A. Yes.  
 3 Q. And now you have two?  
 4 A. No, we just have one. We had to move this  
 5 one to put marination in it.  
 6 Q. Okay. And the refrigeration room. You had  
 7 one before the change?  
 8 A. Yes.  
 9 Q. And how many do you have now?  
 10 A. We've got one, but it's a lot larger.  
 11 Q. Okay. And the hydraulic area, did you have  
 12 that before the change?  
 13 A. Yes.  
 14 Q. Do you have two now or just a larger one?  
 15 A. Just one.  
 16 Q. Okay. Now, what production areas do you  
 17 have in the further processing, other than fry  
 18 line, marination, spiral freezer, packout,  
 19 forklift battery, refrigeration, and hydraulic?  
 20 A. Got a cooler and we've got a freezer.  
 21 Q. Anything else?  
 22 A. That's all I can remember.  
 23 Q. All right. Now, organizationally, are each

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1 of those considered a separate department?  
 2 A. I don't know how the employees are charged  
 3 to what area. I don't know that. I don't know.  
 4 Q. Do you have any administrative offices at  
 5 the further processing plant?  
 6 A. Yes.  
 7 Q. Where are they?  
 8 A. Right here, these four offices. There's an  
 9 office in the maintenance shop; there's an office  
 10 right here in the maintenance shop; there's an  
 11 office right here; there's a USDA office right  
 12 here; there's an office right here; there's an  
 13 office right here; all accounting offices is over  
 14 here; general manager's office is right here.  
 15 Q. So is there an HR function in the further  
 16 processing plant?  
 17 A. No.  
 18 Q. Is there a QA function within that plant?  
 19 A. Yes.  
 20 Q. Where are they?  
 21 A. Right in this area.  
 22 Q. Okay. And where do employees enter the  
 23 further processing plant?

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1 A. Normally, right here.  
 2 Q. Okay. Just write "entry" right there.  
 3 A. (Witness complies.)  
 4 Q. And is that location of the entry the same  
 5 before and after the recent changes?  
 6 A. Yes. An entry here, got an entry right  
 7 here, maintenance and QA enters here, there's an  
 8 entrance, accounting/admin entrance here.  
 9 Q. Now, which entrance does the production room  
 10 employees come through?  
 11 A. Mainly right here.  
 12 Q. And that's the one next to the picnic area?  
 13 A. Yes.  
 14 Q. Y'all have one picnic area for that plant?  
 15 A. Yes.  
 16 Q. And they come into a hall?  
 17 A. Yes.  
 18 Q. And the first thing they have there is a  
 19 break room?  
 20 A. Yes.  
 21 Q. Where's the supply room?  
 22 A. Right there.  
 23 Q. All right. So that's down the hall from the

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1 break room, correct?  
 2 A. Yes.  
 3 Q. Where do you enter the production area?  
 4 A. Right here.  
 5 Q. All right. So you come in the door by the  
 6 picnic area, you walk down a hall that runs  
 7 adjacent to the break room; and at the end of the  
 8 break room, you turn right into another hall that  
 9 leads into the entry door to the production area?  
 10 A. Yes.  
 11 Q. Now, where's the time clock?  
 12 A. Right here, I believe. Right in that  
 13 hallway, right on the break room wall, I think.  
 14 Q. And you have no boot sanitation in this  
 15 plant; is that correct?  
 16 A. No.  
 17 Q. Is that correct?  
 18 A. Correct.  
 19 Q. Never have had any?  
 20 A. Not as I'm aware of.  
 21 Q. Where are the restrooms?  
 22 A. I believe they're right here.  
 23 Q. Across the hall from the break room?

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1 A. And right here.  
 2 Q. Okay.  
 3 A. It's hard to tell on this print.  
 4 Q. Yeah, it is. So there are no restrooms  
 5 within the production area in either plant,  
 6 correct?  
 7 A. Correct.  
 8 Q. There are no break rooms in the production  
 9 area in either plant?  
 10 A. Correct.  
 11 Q. Where is the nurse's station?  
 12 A. Nurse's station? I believe that's labeled  
 13 nurse's station.  
 14 Q. And that serves both plants?  
 15 A. Yes.  
 16 Q. And it's, just for the record's sake, it  
 17 looks like it's a separate building; is that  
 18 right?  
 19 A. Yes.  
 20 Q. And it sits out by the parking lot?  
 21 A. Yes. Right off the sidewalk.  
 22 Q. Right out front of the fresh processing  
 23 plant, correct?

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1 A. Correct.  
 2 Q. All right. Employees are not allowed to  
 3 have candy, gum, food, drink, or anything of that  
 4 sort, in the production area; is that correct?  
 5 A. Correct.  
 6 Q. So employees have to leave the production  
 7 area to either get supplies from the supply room,  
 8 to go to the nurse's station, to go to bathroom,  
 9 to go to the QA office, correct?  
 10 A. Correct.  
 11 Q. Is that true of both plants?  
 12 A. Yes.  
 13 Q. All right. Do you know how much time it  
 14 takes for employees to walk from the front door to  
 15 the time clock?  
 16 A. No.  
 17 Q. Do you know how long it takes employees to  
 18 walk from the supply room to the entry to the  
 19 production room?  
 20 A. No.  
 21 Q. Do you know how long it takes employees to  
 22 walk from the break room to the entry to the  
 23 production area?

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1 A. No.  
 2 Q. Do you know how long it takes employees to  
 3 walk from their station on the line back to the  
 4 bathroom?  
 5 A. No.  
 6 Q. Or to the break room?  
 7 A. No.  
 8 Q. Or to the QA department?  
 9 A. No.  
 10 Q. Do you know the amount of times it takes  
 11 employees to don or doff or sanitize their  
 12 protective gear or equipment?  
 13 A. No.  
 14 Q. Has the company ever studied any of the  
 15 amounts of time it takes to do any task related to  
 16 donning, doffing, or sanitizing protective gear or  
 17 equipment?  
 18 A. Not that I'm aware of, but I don't know.  
 19 Q. Has the company, or anyone on behalf of the  
 20 company, videotaped employees donning, doffing,  
 21 sanitizing, or walking time?  
 22 A. Has the company -- are you talking about the  
 23 company officials?

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1 Q. The company, or anybody acting on the  
 2 company's behalf, such as an outside consultant or  
 3 person.  
 4 Has anybody ever videotaped employees when  
 5 they are performing activities related to donning,  
 6 doffing, or sanitizing protective gear or  
 7 equipment, or walking from a supply room, break  
 8 room, or bathroom to their workstation?  
 9 A. Yes.  
 10 Q. When was that done?  
 11 A. I don't know the answer to that.  
 12 Q. Approximately when?  
 13 A. I don't have a clue how to even guess. I  
 14 don't remember.  
 15 Q. Is it possible it was within the last year?  
 16 A. It's possible, but I don't know the date.  
 17 Q. Did you see them videotape?  
 18 A. No, I did not see them videotape.  
 19 Q. What's the source of your knowledge?  
 20 A. Just that somebody come in and done a study  
 21 on how long it would take to don and doff.  
 22 Q. And have you seen the results of the study?  
 23 A. No, I have not.

37 (Pages 142 to 145)

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1 Q. Do you know any of the amounts of time that  
2 were learned or determined?  
3 A. No.  
4 Q. Do you know who it is that did the  
5 videotaping?  
6 A. No.  
7 Q. Did you assist in making arrangements for  
8 the videotaping?  
9 A. No, I did not.  
10 Q. Have you watched the videotapes?  
11 A. No.  
12 Q. Have you seen any parts, pictures or  
13 anything, produced from the videotapes?  
14 A. No.  
15 Q. Do you know anybody at the plant who has  
16 been involved with the videotaping?  
17 A. Not directly I do not.  
18 Q. Who was in charge of supervising the  
19 videotape process?  
20 A. I don't know. I honestly don't know.  
21 Q. Why did you do the videotaping?  
22 A. I don't know that.  
23 Q. Have you ever made a determination that it

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1 is administratively impractical to keep up with  
2 employees' donning, doffing, or sanitizing time?  
3 A. Repeat the question.  
4 Q. Have you ever made a determination that it's  
5 administratively impractical to record or keep up  
6 with the amount of time employees are spending  
7 donning, doffing, or sanitizing protective gear or  
8 equipment?  
9 MR. ROSENTHAL: Objection to the form  
10 of the question. You can answer.  
11 A. I don't know the answer. I don't understand  
12 the question.  
13 Q. Have you ever made a determination that  
14 it's, from an administrative standpoint,  
15 impractical for the company to track and record  
16 and then pay for the amount of time it takes to  
17 don or doff or sanitize protective gear or  
18 equipment?  
19 MR. ROSENTHAL: Objection again to the  
20 form of the question.  
21 A. Not that I'm aware of. I really don't know.  
22 Are you asking me have I made a decision not to  
23 pay for donning and doffing, in simple terms? Is

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1 that what you're asking?  
2 Q. No. I think I asked you that earlier today.  
3 But right now I'm just asking if you've made a  
4 decision or made a determination that it's  
5 administratively too difficult or impractical to  
6 keep up with the amount of time employees  
7 typically take to don, doff, or sanitize their  
8 protective gear or equipment.  
9 MR. ROSENTHAL: Objection to the form  
10 of the question.  
11 A. No, I haven't made that decision.  
12 Q. Do you know anybody who has?  
13 A. No.  
14 Q. Do you know anybody who has that as part of  
15 their responsibility?  
16 A. Not that I'm aware of.  
17 Q. Did you participate in the decision to pay  
18 three minutes for donning and doffing time?  
19 A. I was at the negotiating table when it was  
20 negotiated between the company and RWDSU.  
21 Q. Other than sitting at the table, did you  
22 participate in that decision, that three minutes  
23 would be the amount of time the company would pay

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1 for donning and doffing clothes or equipment?  
2 A. As a group, that's what we negotiated as a  
3 group.  
4 Q. Okay. Yeah. I'm going to get into the  
5 negotiation in a minute. But right now I'm trying  
6 to figure out are you the decision maker.  
7 Did you make the decision that three minutes  
8 was the appropriate amount of time, or were you  
9 just going along for the ride?  
10 A. As a group, we made the decision.  
11 Q. What role did you play in that decision?  
12 A. As a group member.  
13 Q. But you said you never tried to determine  
14 the actual time it takes to do these activities,  
15 correct?  
16 A. No, I have not.  
17 Q. Do you know anybody who has?  
18 A. No.  
19 Q. Do you know how they arrived at three  
20 minutes?  
21 A. I get dressed and go out in the plant, and  
22 it don't take me three minutes.  
23 Q. What do you put on?

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1 A. Smock, hair net, beard net, earplugs, boots.  
 2 Q. You don't wear your boots during the regular  
 3 part of your day?  
 4 A. No.  
 5 Q. Now, do you know anybody who has made a  
 6 determination that three minutes is the actual  
 7 amount of time it takes to do donning/doffing of  
 8 protective gear or equipment?  
 9 A. Not that I'm aware of.  
 10 Q. Did you ever see any documents that  
 11 referenced three minutes as the amount of time to  
 12 be paid or negotiated for donning and doffing?  
 13 A. No.  
 14 Q. Did the union, to your knowledge, make any  
 15 time study or effort to determine the amount of  
 16 time it actually takes to don and doff?  
 17 A. I can't answer that. Not to my knowledge,  
 18 but I don't know.  
 19 Q. Who was in the group that you say was  
 20 involved in the negotiations that led to the  
 21 three-minute time period?  
 22 A. It's listed in the contract. I don't  
 23 remember all the names, but it's on the contract.

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1 Q. All right. Tell me what part your speaking  
 2 of.  
 3 A. This is not a signed contract. It would be  
 4 one with signatures in it.  
 5 Q. See if that's one.  
 6 A. (Witness complies.)  
 7 Q. Okay. Page 29 you're handing me, which is  
 8 Bates number E 6007. I don't see your name on  
 9 here. There you are. Okay.  
 10 So for the company it's Tim Esslinger, Jim  
 11 Bice, Greg Mills, and Kathy Gilmore?  
 12 A. Yes.  
 13 Q. Anyone else involved in that decision to  
 14 agree to three minutes?  
 15 A. Just the ones on that list, and the union.  
 16 Q. And the union members are listed to the left  
 17 of your name on page 29 of that exhibit?  
 18 A. Yes.  
 19 Q. Are all the union members employees of  
 20 Equity Food Group, except Henry Jenkins?  
 21 A. Jerry Foster's not.  
 22 Q. Okay. Have you had any administrative  
 23 difficulties since paying the three minutes?

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1 A. Not as I'm aware of.  
 2 Q. Have you ever looked into what other  
 3 companies do in terms of keeping up with the time  
 4 taken to don or doff protective gear or equipment  
 5 for pay purposes?  
 6 A. No, I haven't.  
 7 Q. Do you know anything at all that was  
 8 considered in deciding that three minutes would be  
 9 the appropriate amount of time to pay for donning  
 10 and doffing?  
 11 A. Other than our own personal time for what it  
 12 takes for us to get dressed and walk out to the  
 13 plant. That's all I know. That's what I based my  
 14 ruling on.  
 15 Q. What did the union propose as the  
 16 appropriate amount of time, prior to reaching the  
 17 final agreement?  
 18 A. I can't remember. I can't answer that. I  
 19 don't know.  
 20 Q. Now, we were given some documents this  
 21 morning, Exhibits 19 and 20, which had to do with  
 22 union proposals and company responses.  
 23 Do any of those documents reference the

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1 negotiations over the three minutes?  
 2 A. I do not see anything in 19; I don't see  
 3 anything in Exhibit 20 either.  
 4 Q. Okay. Is Spence Jernigan still with the  
 5 company?  
 6 A. Yes.  
 7 Q. What's his job now?  
 8 A. I don't know his job title, but he's  
 9 director of HR.  
 10 Q. Where is he located?  
 11 A. Huntsville.  
 12 Q. Did he play any role in the new contract  
 13 negotiations in 2008?  
 14 A. No.  
 15 Q. Is James Davis still with the company?  
 16 A. No.  
 17 Q. Where is he now?  
 18 A. He's working for another firm in Eufaula.  
 19 Q. And what's the name of it?  
 20 A. I think Cooper Lighting, but I don't know.  
 21 Q. It's not a poultry --  
 22 A. No.  
 23 Q. Why did he leave the company?

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1 A. Better benefits he said, and better  
 2 opportunity.  
 3 Q. Now, when you signed the 2004 contract, you  
 4 signed it as plant manager, correct?  
 5 A. Yes.  
 6 Q. Were you in charge of both plants at that  
 7 time?  
 8 A. No.  
 9 Q. Did this contract apply to both plants, the  
 10 2004 contract?  
 11 A. Yes.  
 12 Q. It did?  
 13 A. Yes. All bargaining units.  
 14 Q. Okay. What employees in the further  
 15 processing plant are not subject to the collective  
 16 bargaining agreement?  
 17 A. QA and maintenance.  
 18 Q. Now, are employees rotated from job to job?  
 19 A. Yes.  
 20 Q. Are there any employees who are not subject  
 21 to rotation?  
 22 A. Yes.  
 23 Q. Hourly employees, I mean, production

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1 employees. Are any of them not subject to  
 2 rotation?  
 3 A. I don't know the answer to that.  
 4 Q. Why do you rotate employees?  
 5 A. Repetitive motion.  
 6 Q. Is that a physical injury type thing?  
 7 A. Yes.  
 8 Q. What part of the body does it affect?  
 9 A. Could be wrists, hands, arms.  
 10 Q. How often do you rotate employees?  
 11 A. I don't know the answer to that.  
 12 Q. Are employees subject to rotation on a daily  
 13 basis?  
 14 A. I don't know the answer to that. People  
 15 under me does the rotation; I don't. I don't get  
 16 involved in that.  
 17 Q. Do you know of any documents that speak to  
 18 the issue of rotation?  
 19 A. I don't.  
 20 Q. How long have you been rotating employees?  
 21 A. I don't know the time frame.  
 22 Q. Are there documents that would show on a  
 23 particular day what a given employee would be

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1 performing, what job he would be performing?  
 2 A. I don't know. I don't know the answer to  
 3 that at this point.  
 4 Q. Who do you think would be knowledgeable on  
 5 that subject?  
 6 A. Supervisors or shift managers.  
 7 Q. But employees, when they come to work in the  
 8 morning, don't know which job they're going to be  
 9 assigned?  
 10 A. I don't know the answer to that. I don't  
 11 know how they manage their people.  
 12 Q. You said earlier that the company has  
 13 employees doing physical exercises in some areas,  
 14 correct?  
 15 A. I don't remember saying that.  
 16 Q. Well, I thought I remember you saying this  
 17 morning that the employees at some point in time  
 18 have done physical exercises during the day.  
 19 A. They have at some point in time.  
 20 Q. Are they doing that currently?  
 21 A. I don't know the answer to that.  
 22 Q. Were they doing that on paid or unpaid time?  
 23 A. Paid.

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1 Q. What part of the day were those exercises  
 2 being done?  
 3 A. In the mornings, normally after they got on  
 4 their line.  
 5 Q. And how long would they do the physical  
 6 exercises?  
 7 A. I don't know the answer to that.  
 8 Q. I think I asked you this, but I want to make  
 9 sure: Do you know which departments did the  
 10 physical exercises?  
 11 A. The best of my knowledge, debone was the  
 12 only department doing that.  
 13 Q. And was it the whole department?  
 14 A. I don't know the answer to that.  
 15 Q. Did the company consider doing physical  
 16 exercises to be work?  
 17 A. Yes. They was on the clock. It was after  
 18 the line was started, after they got on the line.  
 19 Q. Are all activities that employees are paid  
 20 for considered work?  
 21 A. Yes.  
 22 Q. Now, you said you started with the company  
 23 September '99, correct?

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1 A. I believe that's correct.  
 2 MR. ROSENTHAL: He said started with  
 3 CP.  
 4 Q. CP in September of '99. And were you  
 5 involved in the collective bargaining negotiations  
 6 while you were with CP?  
 7 A. No.  
 8 Q. And the contract that CP had ran from 2000  
 9 to 2004; is that correct? Or do you know?  
 10 A. I don't know.  
 11 Q. How many employees are paid on a piece  
 12 basis?  
 13 A. None.  
 14 Q. When did that cease?  
 15 A. I don't recall the date.  
 16 Q. How many, when you were paying employees on  
 17 a piece basis, did you have that you were doing  
 18 that?  
 19 A. I don't remember the number of employees.  
 20 Q. Which employees were paid on a piece basis?  
 21 A. Tender sizing and thigh sizing.  
 22 Q. How are they paid now?  
 23 A. That department no longer exists.

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1 Q. Now, you said earlier you didn't know if you  
 2 had any setup employees?  
 3 A. Correct.  
 4 Q. Do you have any personal knowledge about the  
 5 collective bargaining agreement while CP ran the  
 6 plant?  
 7 A. No, other than the handbook that we had to  
 8 go by. I don't recall what was in the union  
 9 handbook. I was not part of the negotiations.  
 10 Q. You're calling the handbook the contract?  
 11 A. I meant the contract. Sorry.  
 12 Q. Do you know who negotiated on behalf of the  
 13 union when CP ran the plant and the collective  
 14 bargaining was being negotiated?  
 15 A. No, I don't.  
 16 Q. Do you know of any differences in the way CP  
 17 paid employees and the way Equity Group pays  
 18 employees?  
 19 A. No, I don't. The same system we had then  
 20 carried through all contracts.  
 21 Q. Were you involved in any of the decision  
 22 making that led Equity Group to take over the  
 23 plant from CP?

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1 A. Tell me what you're talking about.  
 2 Q. Were you involved in making any of the  
 3 decisions that went into the transition of  
 4 ownership from CP to Equity Group?  
 5 A. No.  
 6 Q. Were you involved in any of the decisions or  
 7 considerations that went into whether or not  
 8 Equity Group would follow the customs or practices  
 9 of CP?  
 10 A. No.  
 11 Q. Do you have any knowledge on that subject?  
 12 A. No.  
 13 Q. Have you ever had any conversations with  
 14 Jacqueline Davis about donning and doffing?  
 15 A. She was in the negotiations.  
 16 Q. Do you remember anything she said?  
 17 A. No, not her personally.  
 18 Q. Have you ever heard Jacqueline Davis say  
 19 anything that touched on the subject of donning  
 20 and doffing or pay for donning and doffing?  
 21 A. No. I read her depositions where --  
 22 Q. When did you do that?  
 23 A. When this come up, I read everything about

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1 donning and doffing that I knew. And I knew that  
 2 she had filed a case against us, so I read her,  
 3 you know -- we reviewed her documents.  
 4 Q. "We" being who?  
 5 A. Myself, Kathy Gilmore.  
 6 Q. All right. So did you read her deposition  
 7 in this case or some other case?  
 8 A. I read one she made in another case.  
 9 Q. And that's when CP owned the plant?  
 10 A. I don't remember who owned it at the time.  
 11 Q. Do you remember anything you learned?  
 12 A. There's some in my affidavit there about  
 13 what was in there about the Jackie Davis case  
 14 about the donning and doffing.  
 15 Q. Yeah. But I'm talking now about what you  
 16 learned when you read the deposition.  
 17 A. I learned that the judge didn't grant her  
 18 any donning and doffing pay.  
 19 Q. Okay. Anything else?  
 20 A. No. That was the main concern.  
 21 Q. Do you know what Jacqueline Davis understood  
 22 or said she understood about whether she could  
 23 expect to be paid for donning and doffing

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 activities while CP ran the plant?</p> <p>2 A. She wasn't expecting to be paid for it, as</p> <p>3 far as I know.</p> <p>4 Q. But have you ever heard her express her</p> <p>5 understanding?</p> <p>6 A. No, I have not.</p> <p>7 Q. Have you ever read anything in which she</p> <p>8 expressed her understanding?</p> <p>9 A. I don't recall.</p> <p>10 Q. Have you ever read or heard anything that</p> <p>11 indicated what Jacqueline Davis understood about</p> <p>12 whether it's a well-known practice for CP to pay</p> <p>13 only for time worked at the workstation?</p> <p>14 A. From what I read, that's what she understood</p> <p>15 she got paid. That it was understood that she got</p> <p>16 paid for time worked at the workstation.</p> <p>17 Q. But you never heard her say that?</p> <p>18 A. I never heard her say that.</p> <p>19 Q. Do you know why CP decided to sell the</p> <p>20 plant?</p> <p>21 A. I've heard rumors.</p> <p>22 Q. What did you hear?</p> <p>23 A. Nonprofit organization.</p> | <p>1 What is that?</p> <p>2 A. I don't remember. I haven't seen a</p> <p>3 grievance in years.</p> <p>4 Q. How many?</p> <p>5 A. I don't recall.</p> <p>6 Q. All right. So you don't have any knowledge</p> <p>7 about grievances until they reach your level,</p> <p>8 correct.</p> <p>9 A. Correct.</p> <p>10 Q. Let's see if we can figure out what your</p> <p>11 level is. Look in this union contract. Can you</p> <p>12 find where it defines your level?</p> <p>13 A. Actually, I'm not even on here. But I know</p> <p>14 about them if it goes to the plant manager level.</p> <p>15 We have a grievance if it gets to the step two.</p> <p>16 If it gets to the plant manager, I'm made aware of</p> <p>17 it.</p> <p>18 Q. Okay.</p> <p>19 A. If we ever have one.</p> <p>20 Q. But you have no knowledge of any grievances</p> <p>21 that only went to the step one?</p> <p>22 A. No.</p> <p>23 Q. Who was the chief negotiator for the company</p> |
| Page 163                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Page 165                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>1 Q. Wasn't make any money?</p> <p>2 A. No money.</p> <p>3 MR. ROSENTHAL: It was a profit-making</p> <p>4 organization that was not making profit.</p> <p>5 MR. WIGGINS: Right.</p> <p>6 Q. Have you ever heard Jacqueline Davis say</p> <p>7 anything to Jenkins or Foster?</p> <p>8 MR. ROSENTHAL: Anything at all?</p> <p>9 Q. About donning and doffing.</p> <p>10 A. Not that I recall, but I'm sure she did in</p> <p>11 the contract negotiations.</p> <p>12 Q. Now, Jenkins and Foster were the union</p> <p>13 representatives, correct?</p> <p>14 A. Correct.</p> <p>15 Q. But did you ever hear Davis say anything to</p> <p>16 Jenkins or Foster about donning and doffing; and</p> <p>17 if so, what did you hear?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you handle grievances, union grievances?</p> <p>20 A. If they come up to my level.</p> <p>21 Q. What's your level?</p> <p>22 A. Operations manager.</p> <p>23 Q. Is that the fourth level? third? second?</p>                                        | <p>1 in the collective bargaining in 2008?</p> <p>2 A. Howard Rosenthal.</p> <p>3 Q. All right. And who was the chief negotiator</p> <p>4 for the company in the collective bargaining in</p> <p>5 2004?</p> <p>6 A. Howard.</p> <p>7 Q. Okay. Were there any other attorneys</p> <p>8 involved in either of the collective bargaining</p> <p>9 years that went on, 2004 and 2008?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Now I may be assuming too much. Has the</p> <p>12 collective bargaining agreement ever been</p> <p>13 negotiated, to your knowledge, except in 2004 and</p> <p>14 2008?</p> <p>15 A. Not to my knowledge, no.</p> <p>16 Q. You haven't had any midterm or interim</p> <p>17 negotiations?</p> <p>18 A. No, not to my knowledge.</p> <p>19 Q. Who was the chief negotiator for the union</p> <p>20 in 2004?</p> <p>21 A. I would guess Henry Jenkins.</p> <p>22 Q. What about 2008?</p> <p>23 A. Same.</p>                    |

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Q. I'm showing you the new exhibit you gave me<br/>2 this morning, Exhibit 17, called "Good<br/>3 Manufacturing Practices." Look at page 3. Who is<br/>4 Jretha Diggs?<br/>5 A. She was a QA supervisor, I believe.<br/>6 Q. Is she still with the company?<br/>7 A. No.<br/>8 Q. Do you know where she is now?<br/>9 A. No.<br/>10 Q. Do you know if she's in the Eufaula area?<br/>11 A. I don't have a clue.<br/>12 Q. And why did she leave the company?<br/>13 A. I don't know the answer to that.<br/>14 Q. Is she the same person as Jretha Thompson?<br/>15 A. Yes.<br/>16 Q. And it looks like she was still with the<br/>17 company as of August 18, 2007, according to this<br/>18 page, correct?<br/>19 A. Correct.<br/>20 Q. Who replaced her?<br/>21 A. I don't know the answer to that.<br/>22 Q. And what was her title?<br/>23 A. QA supervisor, I believe.</p>                                                                                                                                                  | <p>1 A. No. But I'm not that familiar with the QA.<br/>2 They don't report to me.<br/>3 Q. When it uses the words "team members," what<br/>4 does that mean?<br/>5 A. Everybody, I would guess. I don't know.<br/>6 Q. That would include you?<br/>7 A. Every team member. I don't know what the<br/>8 definition of it is in this sentence.<br/>9 Q. But you don't divide employees into teams?<br/>10 A. No.<br/>11 Q. How many first line supervisors do you have<br/>12 in debone?<br/>13 A. I don't remember off the top of my head.<br/>14 It's in the flowchart or organizational chart.<br/>15 Q. Okay. Now, look at the "Grounds" section,<br/>16 page 4. Do you see that section?<br/>17 A. Yes.<br/>18 Q. Has that always been the practice since<br/>19 March of 2004?<br/>20 A. Yes.<br/>21 Q. And the purpose of that part of the GMP is<br/>22 to prevent contamination of the poultry products?<br/>23 A. Not the grounds. Grounds is to protect</p>                                                                                                |
| Page 167                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Page 169                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>1 Q. And how long did she hold that job?<br/>2 A. I don't know the answer to that.<br/>3 Q. Was she with CP?<br/>4 A. I don't know the answer to that.<br/>5 Q. Look at page 4, under the title "Purpose."<br/>6 It says, "The following GMP's were established to<br/>7 minimize the introduction of bacteria,<br/>8 contaminants, or foreign material into our<br/>9 manufacturing environment and must be adhered to<br/>10 by all team members and visitors while in<br/>11 production areas including coolers, shipping, and<br/>12 receiving docks."<br/>13 Do you know of any other purpose for these<br/>14 practices that are then listed in the policy?<br/>15 A. Not as I'm aware of.<br/>16 Q. Under "Responsibility" it says, "The Quality<br/>17 Assurance Department primarily administers this<br/>18 program."<br/>19 How do they do that?<br/>20 A. I don't know.<br/>21 Q. Do you know of any recordkeeping they do in<br/>22 terms of checking employees' donning, doffing, or<br/>23 sanitizing practices?</p> | <p>1 against insects. Pest control. That sort of<br/>2 stuff that could lead into the plant: rats<br/>3 rodents, so forth, on the grounds. Grounds is<br/>4 outside perimeter, not the plant.<br/>5 Q. All right. Let's go to the next page to the<br/>6 "Plant Construction and Design" section.<br/>7 It says, "Plant buildings and structure<br/>8 shall be suitable in size, construction and design<br/>9 to facilitate maintenance and sanitary operations<br/>10 for food - manufacturing purposes." Correct?<br/>11 A. Yes.<br/>12 Q. Now, have you always followed these<br/>13 practices listed under "Plant Construction and<br/>14 Design" at the two plants here in Eufaula, since<br/>15 March of 2004?<br/>16 A. To the best of my knowledge.<br/>17 Q. And then under "General Requirements," do<br/>18 you see any part of the general requirements that<br/>19 have not always been required of employees since<br/>20 March of 2004?<br/>21 (The witness examines the<br/>22 document.)<br/>23 A. I don't know if this goes all the way back</p> |

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1 to 2004; but to the best of my knowledge after  
 2 briefly reading through it, these are the rules  
 3 that we follow today.  
 4 Q. And sitting here watching you, you read  
 5 through all 41 items; is that right?  
 6 A. I scanned through it. I didn't read every  
 7 one of them word for word.  
 8 Q. All right. Let's look at No. 2. It says,  
 9 "All team members and visitors must wash and  
 10 sanitize hands before starting work..."  
 11 That's always been a requirement, correct?  
 12 A. Best of my knowledge.  
 13 Q. And then it says, "All team members must  
 14 wash and sanitize hands after each absence from  
 15 the work area....," correct?  
 16 A. Yes.  
 17 Q. And that's always been a requirement,  
 18 correct?  
 19 A. Best of my knowledge.  
 20 Q. And what will cause absences from the work  
 21 area?  
 22 A. If you leave and go to the break room, or  
 23 you go to the nurse's station, or you go to HR,

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1 QA, anywhere you go.  
 2 Q. Restroom?  
 3 A. Restroom, which it states up here.  
 4 Q. And the reason for that rule No. 2 that you  
 5 must wash and sanitize hands after each absence  
 6 from the work area and before starting work is to  
 7 protect the poultry products from contamination,  
 8 correct?  
 9 A. Yes. You're handling food.  
 10 Q. And that's the reason for the rule; is that  
 11 right?  
 12 A. Correct.  
 13 Q. Now, No. 4 says, "A solid (non-mesh) hair  
 14 net must be worn to contain the hair as completely  
 15 as possible."  
 16 That's always been the rule that employees  
 17 are required to follow?  
 18 A. Not always, but it has been for the last  
 19 period of time. I don't know how long.  
 20 Q. Since March of 2004 at least?  
 21 A. I would think, but I don't know that.  
 22 Q. And No. 6 says, "A clean smock must be  
 23 obtained daily."

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1 That's been required since at least March of  
 2 2004, correct?  
 3 A. No.  
 4 Q. When did that first start?  
 5 A. I don't know.  
 6 Q. The next sentence of Rule 6 under General  
 7 Requirements says, "Smocks are to be changed  
 8 during the shift if needed."  
 9 Has that always been a rule?  
 10 A. Yes.  
 11 Q. And when will a change in smocks be needed?  
 12 A. Only if they get contaminated.  
 13 Q. And what would contaminate a smock?  
 14 A. Wet, bloody, for example.  
 15 Q. Are there any jobs in which employees never  
 16 get wet, bloody, or contaminated?  
 17 A. Yes.  
 18 Q. Which ones?  
 19 A. QA, for example. I don't know all the jobs  
 20 and what does and don't get contaminated or  
 21 bloody.  
 22 Q. Okay. The next sentence of Rule 6 of  
 23 General Requirements says, "Smocks must fasten or

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1 tie properly to cover street clothes. Smocks may  
 2 not have sewn on buttons or an external upper  
 3 pocket."  
 4 Has that always been true since March of  
 5 2004?  
 6 A. I can't answer that since March of 2004.  
 7 Q. Why do you have a rule that the smocks must  
 8 fasten or tie properly to cover street clothes?  
 9 A. To cover street clothes.  
 10 Q. Is that to protect the poultry from  
 11 contamination by street clothes?  
 12 A. Yes. And to protect the clothing of the  
 13 employee.  
 14 Q. All right. "Smocks may not have sewn on  
 15 buttons."  
 16 What purpose does that serve?  
 17 A. You don't want a button getting in your  
 18 product.  
 19 Q. And can't have an external upper pocket.  
 20 What purpose does that serve?  
 21 A. You don't want nothing in your pocket to  
 22 fall over in your product.  
 23 Q. It would contaminate the product?

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1 A. Yes.  
 2 Q. And then Rule 7 of General Requirements  
 3 says, "Smocks, hair nets, and beard nets must be  
 4 removed before exiting the facility."  
 5 And I believe you've already said that's  
 6 always been the rule?  
 7 A. Yes. Can't wear them outside.  
 8 Q. Why?  
 9 A. Contamination.  
 10 Q. Of the poultry product?  
 11 A. Yes. Of the smock that's going back to the  
 12 poultry product.  
 13 Q. Okay. Then Rule 8 says, "Keep hands and  
 14 fingernails clean. Keep fingernails properly  
 15 trimmed, and if fingernail polish or false  
 16 fingernails are worn, gloves must cover hands  
 17 while in any production area, including box rooms,  
 18 shipping/receiving, dry storage, product storage."  
 19 Has that always been the requirement that  
 20 employees are required to follow?  
 21 A. I don't know about always. It is today.  
 22 Q. Do you know if that's been since March of  
 23 2004?

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1 A. No, I don't. I don't recall that far back.  
 2 Q. Rule 10 of the General Requirements says,  
 3 "Clothing must be clean at the start of operation  
 4 and kept reasonably clean during operations."  
 5 Which clothing is that talking about?  
 6 A. Smock.  
 7 Q. Is it talking about the street clothes too?  
 8 A. No.  
 9 Q. Well, are you just repeating yourself in No.  
 10 10 from what you said in No. 6 about smocks?  
 11 A. Looks that way.  
 12 Q. Did you author these rules? Did you have  
 13 any role in the authorship of these rules?  
 14 A. No.  
 15 Q. Rule 11 of the General Requirements says,  
 16 "Plastic sleeve covers will be worn to cover any  
 17 street clothes that extend beyond smock coverage  
 18 on the arms when handling product."  
 19 Is the purpose of that to prevent  
 20 contamination of the chicken product?  
 21 A. And to cover your street clothes.  
 22 Q. To prevent contamination?  
 23 A. And to keep your street clothes from getting

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1 messed up.  
 2 Q. And the company furnishes the plastic  
 3 sleeves to the employees?  
 4 A. Yes, according to the union contract.  
 5 Q. Do you know how often?  
 6 A. No. It's in the contract.  
 7 Q. I believe that's the rule that you said part  
 8 of it you no longer follow, like the three smocks.  
 9 MR. ROSENTHAL: Objection to the form  
 10 of the question.  
 11 Q. When you say it's in the contract, are you  
 12 speaking of Section 13.4, page 21, of the  
 13 2004-2008 contract?  
 14 A. See right there, sleeves?  
 15 Q. Right. But that's what you were referring  
 16 to is that 13.4 Section, correct?  
 17 A. Referring to as this being in the contract?  
 18 Q. In your last answer you said it was in the  
 19 contract. Is that what you were referring to?  
 20 A. Yes. You said the company supplied them;  
 21 that's what I'm referring to.  
 22 Q. Okay. Rule 12 of the General Requirements  
 23 in Exhibit 17 says, "Maintain gloves used for

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1 handling food and food contact packaging supplies  
 2 intact and in a sanitary condition."  
 3 The purpose of that is to protect the  
 4 chicken from contamination, correct?  
 5 A. Yes, and to cover your hands.  
 6 Q. To cover your hands so your hands can't  
 7 touch the chicken, right?  
 8 A. Or the chicken can't touch your hand, yeah.  
 9 Q. Rule 13 says, "Gum, candy, cough drops, and  
 10 tobacco products are not permitted in any  
 11 production area."  
 12 Has that been a rule since at least March of  
 13 2004?  
 14 A. Best of my knowledge.  
 15 Q. Rule 14: "Maintain lockers clean and free  
 16 of trash or soiled clothing."  
 17 Has that always been a rule?  
 18 A. Yes, best of my knowledge.  
 19 Q. Rule 15 says, "No food or beverages are  
 20 allowed in production areas and placing food in  
 21 lockers is highly discouraged unless there is no  
 22 other alternative and it must be properly sealed  
 23 and removed daily."

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1 What's the purpose of that rule?  
 2 A. Pests.  
 3 Q. To keep down pests that would cause poultry  
 4 contamination?  
 5 A. Yeah. You don't want food or beverage in  
 6 your production area.  
 7 Q. Because it might lead to the contamination  
 8 of the poultry?  
 9 A. And it's a USDA requirement.  
 10 Q. And the USDA requirement is put there in  
 11 order to protect poultry from contamination?  
 12 A. I would think so, yes.  
 13 Q. And then Rule 16 says, "Don't use hands or  
 14 equipment for practices which may result in  
 15 contamination of food products. Such practices  
 16 include but are not limited to: touching face,  
 17 wiping forehead; scratching head or body; placing  
 18 fingers on/or in mouth, nose, or ears."  
 19 Has that always been a rule?  
 20 A. I can't answer that. I don't know. It is  
 21 today.  
 22 Q. But the purpose of that rule is stated on  
 23 its face, correct, that it might result in

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1 equipment to be kept free from contamination,  
 2 including the earplugs, is to prevent  
 3 contamination of the poultry products, correct?  
 4 A. Contamination of the earplugs could  
 5 contaminate a human's ears. You want to clean  
 6 them before you put them in your ears, I would  
 7 think.  
 8 Q. For example, it says, "Any item that becomes  
 9 contaminated must be washed and sanitized..." And  
 10 it gives examples like pens, calculators,  
 11 thermometers, clipboards, pans, etc.  
 12 You pay employees for that sanitation,  
 13 correct?  
 14 A. Yes.  
 15 Q. That's considered work?  
 16 A. Yes.  
 17 Q. Now, Rule 25 says, "Only approved footwear  
 18 shall be worn in the processing area to include  
 19 coolers, shipping, and receiving docks."  
 20 Is there any footwear approved other than  
 21 that which the company distributes to the  
 22 employees?  
 23 A. Yes.

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1 contamination of food products?  
 2 A. Yes.  
 3 Q. And then Rule 17 says, "Avoid uncontrolled,  
 4 uncovered coughing or sneezing. Sanitize hands  
 5 afterwards."  
 6 Has that always been a rule?  
 7 A. I don't know the answer to that.  
 8 Q. Now, the purpose of that rule is to protect  
 9 the poultry from contamination, correct?  
 10 A. To keep from sneezing over the food that  
 11 somebody is going to eat.  
 12 Q. Rule 24 says, "Any item that becomes  
 13 contaminated must be washed and sanitized before  
 14 being placed back into use. Processing tools and  
 15 utensils are, but not limited to the following  
 16 items: pens, calculators, thermometers,  
 17 clipboards, pans, edible totes, edible shovels,  
 18 earplugs, maintenance tools, etc."  
 19 Has that always been the rule since at least  
 20 March of 2004?  
 21 A. I can't answer that since March of 2004.  
 22 It's a rule today.  
 23 Q. And the reason for requiring that type of

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1 Q. The company does provide boots to employees,  
 2 correct?  
 3 A. Yes.  
 4 Q. Free of charge?  
 5 A. Yes.  
 6 Q. And why does it do that?  
 7 A. Because it's required to wear washable  
 8 footwear, so we supply boots.  
 9 Q. And is that to prevent contamination of the  
 10 poultry processing areas?  
 11 A. It's a requirement by the USDA.  
 12 Q. And the purpose of their requirement is to  
 13 prevent contamination of the poultry processing?  
 14 A. I guess. But as it states here, you can  
 15 also wear shoe covers.  
 16 Q. Does the company furnish the shoe covers?  
 17 A. We have them available. They're not in the  
 18 contract, but they can buy them if they would  
 19 rather have the shoe covers than the rubber boots.  
 20 Q. Well, the company pays for the rubber boots.  
 21 Does it pay for the shoe covers?  
 22 A. Not as I'm aware of.  
 23 Q. Do most employees wear the rubber boots?

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1 A. Yes.  
 2 Q. It says, "Rubber boots are available at the  
 3 Supply and may be cut down..."  
 4 What does that mean, "cut down"?  
 5 A. If you don't like them coming all the way up  
 6 to your knees, you can cut them off. A lot of  
 7 employees do that.  
 8 Q. These are boots that come all the way to  
 9 your knee if you don't cut them down?  
 10 A. Yes.  
 11 Q. Then it goes on to say, "...but cannot be  
 12 left where they are hanging loose or flapping  
 13 over. Do not cut below the ankle."  
 14 Has that always been a rule?  
 15 A. I can't answer that. It's a practice we  
 16 have today.  
 17 Q. What's the purpose of that rule about not  
 18 cutting your boots or letting them flap?  
 19 A. Safety. Safety for the employee.  
 20 Q. And does it also have to do with sanitation?  
 21 A. No. It's for the safety of the employee.  
 22 Q. Are the rubber boots provided for sanitary  
 23 purposes?

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1 A. They're provided because it's a USDA  
 2 regulation.  
 3 Q. There's nothing in the union contract about  
 4 boots?  
 5 A. Yes, it's in the union contract.  
 6 Q. What does the union contract say about  
 7 boots?  
 8 A. I don't recall. We do furnish them.  
 9 Q. Rule 34 says, "Only approved tools may be  
 10 used... Examples of non-approved tools:  
 11 pocketknives, fingernail clippers, etc. or any  
 12 tool with a wooden handle."  
 13 What's the purpose of that rule?  
 14 A. Because the tools have to be cleanable,  
 15 sanitizable, and we furnish the tools. We don't  
 16 want the employees to have to furnish tools. We  
 17 furnish tools for the employees.  
 18 Q. And that's so you can make sure you keep the  
 19 poultry processing area in a sanitary condition?  
 20 A. So the tools meet the USDA requirements.  
 21 Q. And the requirements of USDA are to ensure  
 22 the sanitary production of uncontaminated chicken  
 23 products?

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1 A. Yes.  
 2 Q. Rule 35 talks about work stands, ergo  
 3 stands. What are those?  
 4 A. The stands they get up on to make their job  
 5 more ergonomically correct.  
 6 Q. Where are they provided at?  
 7 A. On the lines where the employees work.  
 8 Q. Turn to page 11 of Exhibit 17.  
 9 A. (Witness complies.)  
 10 Q. Under "Sanitation Related" for "Slaughter,  
 11 Deboning, and Further Processing," Rule 2 says,  
 12 "Follow cleaning procedures as outlined in Company  
 13 Sanitation Master manual."  
 14 I haven't seen that master manual. Are you  
 15 familiar with what it is?  
 16 A. I know what it is; I don't know what's in  
 17 it.  
 18 Q. Have you ever read it?  
 19 A. No.  
 20 Q. You don't use it at all?  
 21 A. I don't.  
 22 Q. Does the Company Sanitation Master manual  
 23 have anything in it related to donning, doffing,

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1 or sanitizing protective equipment?  
 2 A. I don't know that. I've never read it.  
 3 MR. WIGGINS: Howard, we'd like to have  
 4 that sanitation master manual.  
 5 MR. ROSENTHAL: We'll consider your  
 6 request.  
 7 Q. Now, page 13 of this Exhibit 17 closes by  
 8 saying, "The above GMP's will be strictly  
 9 enforced."  
 10 Has that always been the case?  
 11 A. No. We have not strictly enforced them,  
 12 unfortunately. They have things that went by that  
 13 we didn't take action on. But to the best of our  
 14 ability, we strictly enforce them.  
 15 Q. Have you ever been written up by USDA?  
 16 A. Have I?  
 17 Q. Or cited or anything like that?  
 18 A. The company has, yes.  
 19 Q. Have you ever been written up or cited about  
 20 donning and doffing?  
 21 A. No.  
 22 Q. What about sanitizing protective equipment?  
 23 A. Not as I recall.

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1 Q. Have you been written up about contaminated  
 2 poultry products?  
 3 A. Yes.  
 4 Q. How many times?  
 5 A. I don't know the answer to that.  
 6 Q. What was the cause of the contamination?  
 7 A. Different ones. I don't recall all of it.  
 8 Q. What does USDA call that type of write-up?  
 9 A. NR.  
 10 Q. And who's in charge of NRs?  
 11 A. USDA.  
 12 Q. What does NR mean?  
 13 A. Noncompliance report.  
 14 Q. Who's in charge at the company of NRs?  
 15 A. Nobody at the company's in charge of it.  
 16 USDA's in charge of it. They write them and issue  
 17 them.  
 18 Q. Okay. But who's responsible for responding  
 19 to the problem?  
 20 A. It's according to who gets the NR.  
 21 Q. I mean, is that a first class supervisor job  
 22 or --  
 23 A. It entails the first line supervisor all the

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1 way up to the plant manager.  
 2 Q. Does it involve quality assurance?  
 3 A. Yes.  
 4 Q. Safety department?  
 5 A. It's according to what the NR was written  
 6 on.  
 7 Q. Okay. And how long do you keep your NRs?  
 8 A. I don't recall. They have to be kept on  
 9 site. I don't know.  
 10 Q. Who's the recordkeeper for the NRs for the  
 11 company?  
 12 A. Probably QA. I don't know the answer to  
 13 that.  
 14 Q. Are they kept electronically?  
 15 A. No, not as I'm aware of. I don't know.  
 16 Q. And then the next sentence in the closing  
 17 paragraph of Exhibit 17, after listing all those  
 18 rules we went over, says, "Anyone failing to  
 19 comply with these procedures will be subject to  
 20 being corrected immediately, possible disciplinary  
 21 action up to and including termination." Correct?  
 22 A. Yes.  
 23 Q. Have you disciplined employees for improper

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1 donning and doffing?  
 2 A. I haven't.  
 3 Q. Has the company?  
 4 A. I don't know the answer to that.  
 5 Q. What about for improper sanitizing  
 6 protective gear or equipment?  
 7 A. I don't know the answer to that.  
 8 Q. But employees are subject to discipline and  
 9 discharge for improper donning and doffing or  
 10 sanitizing, correct?  
 11 A. Yes, subject to it.  
 12 Q. Do you remember any NRs that you received  
 13 about contaminated poultry products?  
 14 A. I don't remember. I'm sure we have had  
 15 some, but I don't remember.  
 16 Q. What are your duties and responsibilities as  
 17 complex operations manager?  
 18 A. My duties and responsibilities are that both  
 19 plant managers report to me. And I deal with, as  
 20 the organizational chart states, the plant  
 21 managers, the maintenance complex manager, and the  
 22 sanitation managers on third shift. They report  
 23 to me. I'm also over the projects which falls up

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1 under the maintenance umbrella.  
 2 Q. The company has a sanitation department,  
 3 correct?  
 4 A. Correct.  
 5 Q. And you said it comes in under third shift?  
 6 A. Yes.  
 7 Q. Do they have any employees on the first or  
 8 second shift?  
 9 A. No.  
 10 Q. Describe what the company does to sanitize  
 11 the production area on the third shift.  
 12 A. They clean the production area.  
 13 Q. How do they go about doing that?  
 14 A. Wash it, scrub it, foam it, rinse it, and  
 15 then spray it down with sanitizer.  
 16 Q. And does the USDA inspect it?  
 17 A. Yes.  
 18 Q. Does the USDA have to release it before you  
 19 can start up production?  
 20 A. Yes.  
 21 Q. Is that in writing?  
 22 A. It's a USDA regulation.  
 23 Q. I mean, the release every day. Is that

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## FREEDOM COURT REPORTING

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 recorded in some way as the time of day that you<br/>2 were released?<br/>3 A. We know our down time. If we're not<br/>4 released by our normal start-up time, we know our<br/>5 down time.<br/>6 Q. What records show your down time?<br/>7 A. Production records.<br/>8 Q. And employees get paid for that type of<br/>9 sanitation activity?<br/>10 A. Which employees are you talking about.<br/>11 Q. Your sanitation department. Employees are<br/>12 paid to sanitize the company's equipment?<br/>13 A. Yes.<br/>14 Q. You also sanitize on lunch breaks, meal<br/>15 breaks?<br/>16 A. No.<br/>17 Q. I thought y'all, during break periods,<br/>18 you're setup or your floor persons have to<br/>19 resanitize.<br/>20 A. No.<br/>21 Q. That's never been the case?<br/>22 A. Not sanitize, no.<br/>23 Q. Do they do anything during the break, while</p>                                                                                                                                                     | <p>1 knives and arm guards, correct?<br/>2 A. Yes.<br/>3 Q. And they're paid for that, correct?<br/>4 A. Yes.<br/>5 Q. And that's considered work?<br/>6 A. Correct.<br/>7 Q. If any employee is scheduled to be at work,<br/>8 arrives at work, there's no work for him, he has<br/>9 to wait, is he paid?<br/>10 A. Yes.<br/>11 Q. Is there a rule on that?<br/>12 A. They're paid at their normal start time or<br/>13 their master card time, which starts at a certain<br/>14 time every day and ends at a certain time.<br/>15 Q. And they're paid even though they're just<br/>16 sitting?<br/>17 A. Exactly.<br/>18 Q. Doing nothing?<br/>19 A. Correct.<br/>20 Q. That's still considered work that has got to<br/>21 be paid?<br/>22 A. Correct.<br/>23 Q. That's always been the case?</p>                                                                                                                                                   |
| Page 191                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Page 193                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>1 the normal production line employees are gone on<br/>2 break?<br/>3 A. Some areas are rinsed down. But they don't<br/>4 sanitize.<br/>5 Q. Okay. What's the difference between rinsing<br/>6 down and sanitizing?<br/>7 A. Rinsing down and sanitizing.<br/>8 Q. Physically what's the difference? What are<br/>9 you doing differently?<br/>10 A. Taking a water hose and washing it down<br/>11 would be rinsing it down. If you're sanitizing,<br/>12 you would be spraying sanitizer on it.<br/>13 Q. What kind of sanitizer do you use?<br/>14 A. Chlorine, Clorox.<br/>15 Q. So you don't use any sanitizer except on the<br/>16 third shift, in terms of sanitizing the production<br/>17 area itself?<br/>18 A. Unless we have a breakdown and maintenance<br/>19 has to work on that piece of equipment. Then it<br/>20 has to be rinsed off and sanitized.<br/>21 Q. Who sanitizes knives or arm guards?<br/>22 A. I don't know the answer to that.<br/>23 Q. But somebody is in charge of sanitizing the</p> | <p>1 A. Yes.<br/>2 Q. So the company --<br/>3 MR. WIGGINS: Strike that.<br/>4 Q. Now, the sanitation department employees are<br/>5 paid eight hours even if they work less, correct?<br/>6 A. Correct.<br/>7 Q. What's the least amount of time you've known<br/>8 an employee to work and get paid for eight hours?<br/>9 A. I don't know exactly on times. I mean, I<br/>10 would guess five, six hours.<br/>11 Q. And is that typical that employees will<br/>12 spend five or six hours but get paid for eight?<br/>13 A. On sanitation, yes.<br/>14 Q. And their time after five or six hours,<br/>15 they're at home, correct? They've left the<br/>16 building?<br/>17 A. Not necessarily.<br/>18 Q. Well, employees are paid in the sanitation<br/>19 department even though they've left the premises?<br/>20 A. Correct.<br/>21 Q. Even though they may be home?<br/>22 A. Correct.<br/>23 Q. Even though they may be in the bed asleep?</p> |

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1 A. Correct.  
 2 Q. They're still considered to be working on  
 3 paid time?  
 4 A. They're paid eight hours a day, unless they  
 5 work over eight hours.  
 6 Q. So the company does not require you to exert  
 7 yourself in order to be considered working,  
 8 correct?  
 9 MR. ROSENTHAL: Objection to the form  
 10 of the question. You can answer.  
 11 A. I don't know the answer. I don't know what  
 12 your question is.  
 13 Q. Well, the company pays employees sometimes  
 14 when they're sleeping, sometimes when they're  
 15 sitting and doing nothing, correct?  
 16 A. Correct.  
 17 Q. Okay. Now, in your affidavit you said, in  
 18 paragraph 16 -- Well, let's start at paragraph 14.  
 19 You said, "These production employees are  
 20 paid" -- Well, let's see which production  
 21 employees you're talking about. Paragraph 11.  
 22 Let me show you a copy of your affidavit.  
 23 In paragraph 11 you're taking about employees in

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1 the production department of the fresh plant,  
 2 evisceration and debone, are generally paid under  
 3 a form of line time or master card time, correct?  
 4 A. Correct.  
 5 Q. And you then describe, in the next several  
 6 paragraphs, various things about these employees  
 7 that are subject to master card time or line time,  
 8 correct?  
 9 A. Yes.  
 10 Q. And then paragraph 14, about them you say  
 11 this: "These production employees are paid  
 12 together with hours worked before the start of  
 13 line time or after completion of line time on the  
 14 basis of the master card system."  
 15 Now, what type of activities are those that  
 16 you are describing that are before the start of  
 17 line time or after the completion of line time?  
 18 A. I need to go back and read it all. But what  
 19 it states here is if we have an employee to come  
 20 in early to set up or we ask them to stay late,  
 21 come in early or stay late, we pay them on the  
 22 outside of the master card time. That time is  
 23 adjusted by the supervisor to the actual time

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1 worked.  
 2 Q. Based on their personal time card?  
 3 A. Yes.  
 4 Q. All right. Now --  
 5 A. Anyone that's not falling within the window  
 6 of the master card.  
 7 Q. Right. Now, are there any jobs that that  
 8 type of before-line-time and after-line-time  
 9 activities is in regular part of their job?  
 10 A. Yes. There's some people that's not on the  
 11 master card system.  
 12 Q. Even though they're subject to the  
 13 collective bargaining agreement?  
 14 A. Correct.  
 15 Q. And I think I asked you this earlier, but I  
 16 want to ask you one more time to make sure: Are  
 17 you able to name those jobs?  
 18 A. No, I'm not.  
 19 Q. The only one you named earlier was the floor  
 20 person.  
 21 A. Correct. Setup people, floor person, could  
 22 be the same.  
 23 Q. Now, you earlier said you didn't know

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1 anything about setup persons, but are you now  
 2 remembering?  
 3 A. No. I said it could be floor person or  
 4 setup person.  
 5 Q. All right. Is that two different kinds of  
 6 employees?  
 7 A. I don't know. I said "or."  
 8 Q. Okay. Do you know of any part of the  
 9 production area that does not have floor persons  
 10 or setup persons?  
 11 A. No, I don't.  
 12 Q. Do you know how many floor persons or setup  
 13 persons you have?  
 14 A. No.  
 15 Q. Is that a job that's rotated?  
 16 A. I can't answer that. I don't know.  
 17 Q. Who would know that?  
 18 A. Production supervisors.  
 19 Q. Then the next paragraph, 15, refers to the  
 20 master card being swiped at the end of the shift.  
 21 Is there a master card swiped at the  
 22 beginning of a shift?  
 23 A. Yes.

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1 Q. Is the master card used --  
 2 MR. WIGGINS: I'm sorry. Strike that.  
 3 Q. Is the master card swipe used for pay  
 4 purposes at the start of the day for any employee?  
 5 A. For people that's on the master card, yes;  
 6 for people that's on the master card time.  
 7 Q. The reason I ask is your paragraph 15 says,  
 8 "As employees are paid from the scheduled start  
 9 time, employees are required to be at their  
 10 workstations through the time when the master card  
 11 is swiped at the end of the shift when the last  
 12 bird to be processed passes the final  
 13 workstation."  
 14 Is that a true statement?  
 15 A. Yes.  
 16 Q. Has that always been true since March of  
 17 2004?  
 18 A. I can't answer that. Best of my knowledge,  
 19 it has been.  
 20 Q. Is there any document that describes a rule  
 21 or requirement that the master card be swiped only  
 22 after the last bird passes the final workstation?  
 23 A. I don't know of a document. I'm not aware

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1 of one.  
 2 Q. If an employee's scheduled work time is --  
 3 Well, let me ask you this: Give me an example.  
 4 Let's take debone. What's their scheduled start  
 5 time?  
 6 A. Day shift?  
 7 Q. Day shift.  
 8 A. 7:30.  
 9 Q. If an employee's scheduled start time is  
 10 7:30 and the master card is swiped at 7:35, which  
 11 controls the pay of the employee?  
 12 A. The master card would be swiped at 7:30.  
 13 Q. Well, let's say that something prevents the  
 14 supervisor from getting back out to the break room  
 15 to swipe it.  
 16 A. 7:30.  
 17 Q. So the scheduled time would control?  
 18 A. Yes.  
 19 Q. At the end of the day, what's the 7:30 shift  
 20 end time?  
 21 A. 4:30.  
 22 Q. If the supervisor swipes the master card at  
 23 4:35, which controls? the scheduled time or the

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1 swipe time?  
 2 A. It's according to the situation.  
 3 Q. How does it vary?  
 4 A. Normal, 99 percent of the time you've got to  
 5 walk on/walk off. They would be leaving. But if  
 6 we only run one shift, which we haven't done in  
 7 years, and they have to work until 4:35, they'll  
 8 get paid until 4:35.  
 9 Q. They won't get paid until their clock-out  
 10 time person --  
 11 A. No. They'll get paid by master card time,  
 12 which you said 4:35.  
 13 Q. Okay. Now, if the master card is swiped at  
 14 4:25, what controls the pay?  
 15 A. Going back to my answer, if we're only  
 16 running one shift that day and they get through at  
 17 4:25, they'll get paid at 4:25. As stated  
 18 earlier, when the last bird goes down the line is  
 19 when it's swiped. But on a normal basis, it's  
 20 7:30 to 4:30 on day shift.  
 21 Q. How is it different on the evening shift?  
 22 A. You run until you get finished. It starts  
 23 at 4:30 in debone and runs until you get finished.

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1 Q. But the evening shift though, the start of  
 2 pay is on scheduled time?  
 3 A. Yes. At 4:30.  
 4 Q. And that's the scheduled time, correct?  
 5 A. Correct.  
 6 Q. If the master card is swiped at a time  
 7 different than 4:30, the 4:30 scheduled time still  
 8 controls the pay?  
 9 A. Unless there's a reason why it was swiped  
 10 later.  
 11 Q. Okay. Now, you mentioned something in your  
 12 affidavit about a three- to five-minute lag in one  
 13 area, in change over from one shift to the other?  
 14 A. Yeah.  
 15 Q. Do you recall that?  
 16 A. Let me find it.  
 17 Q. Says, "In debone, work is stopped for  
 18 approximately three to five minutes between  
 19 shifts."  
 20 Why is that?  
 21 A. To gather up the knives and the metal  
 22 gloves, for them to have the other ones out for  
 23 the employees when they get out there.

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1 Q. Okay. So in debone, after the last bird  
2 passes the final station, the master card is  
3 swiped for the first shift, day shift; is that  
4 right?  
5 A. Correct.  
6 Q. And you said that normally is at 4:30?  
7 A. Normally.  
8 Q. All right. You also said the evening shift,  
9 their scheduled start time is 4:30?  
10 A. Correct.  
11 Q. So how does this three- to five minutes  
12 work?  
13 A. There's no birds on the line at that time.  
14 They're not actually working. They're out there  
15 but they're not working.  
16 Q. So this is like from 4:33 to 4:35?  
17 A. I can't give you a definite answer on what  
18 time it is. But it takes three to five minutes to  
19 gather all the tools up and put the new tools out  
20 for the second shift to start. So that's in  
21 between day shift and the second shift.  
22 They're out there but they're not actually  
23 working on the line during that three to five

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1 minutes.  
2 Q. So are the debone employees getting paid for  
3 that three to five minutes?  
4 A. Yes.  
5 Q. Are there records that will reflect this  
6 down time of three to five minutes?  
7 A. No, not as I'm aware of.  
8 Q. Do you know of any documents that describe  
9 this practice?  
10 A. Not as I'm aware of.  
11 Q. All the other areas, besides debone, you  
12 just have a skip in the line; and second shift  
13 steps up as the first shift steps off?  
14 A. Correct.  
15 Q. How much is the skip?  
16 A. I don't know the exact time amount of that.  
17 It's short. I don't know.  
18 Q. Is it as much as a minute?  
19 A. I don't know, as I stated.  
20 Q. What's the longest time, that you're aware  
21 of, from the first station to the last station, in  
22 terms of from the time a bird arrives at the first  
23 station until it arrives at the last station?

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1 A. What department are you talking about?  
2 Q. The longest. Just pick what you think is  
3 the longest.  
4 A. Evis is about ten minutes. That's a guess;  
5 I don't actually know.  
6 Q. What's a typical amount of time from the  
7 first bird to the last?  
8 MR. ROSENTHAL: Objection to the form  
9 of the question.  
10 A. In what area are you talking about? What  
11 plant are you talking about?  
12 Q. Well, let's do it this way: What's the  
13 shortest amount of time it takes a bird to travel  
14 from the first station to the last station on a  
15 given line?  
16 MR. ROSENTHAL: Objection to the form  
17 of the question. You can answer.  
18 A. I don't know how to answer because I don't  
19 know what area you're talking about.  
20 Q. I'm hoping to talk about the shortest one.  
21 A. Which could be?  
22 Q. That's what I wanted you to tell me.  
23 A. The cone line is less than two minutes. The

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1 rest of them, I really don't know. I know evis is  
2 approximately ten minutes.  
3 Q. Look at paragraph 31 of your affidavit. It  
4 says, "Before breaks or at the end of the day  
5 employees may spend a brief amount of time rinsing  
6 their work clothing."  
7 Is that a requirement?  
8 A. It's according to if they've got on an apron  
9 and there's nothing on it, no, they don't have to  
10 rinse it.  
11 Q. How about their gloves and sleeves?  
12 A. It's a standard practice for them to rinse  
13 them.  
14 Q. Where do they rinse?  
15 A. In the sinks, as they go out of the plant.  
16 Q. What do they rinse it with?  
17 A. Soap and water.  
18 Q. Is that part of the process you require in  
19 order to produce uncontaminated chicken products?  
20 A. I guess you could say that.  
21 Q. You don't want blood and guts and other  
22 things building up on the aprons, sleeves, gloves,  
23 and harboring or growing microorganisms, correct?

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 A. Correct.</p> <p>2 Q. And employees are reusing gloves, aprons, or</p> <p>3 sleeves the next day sometimes?</p> <p>4 A. Yes.</p> <p>5 Q. And they're storing them in their lockers?</p> <p>6 A. Yes.</p> <p>7 Q. And the purpose of that rule that they have</p> <p>8 to wash their aprons, gloves, and sleeves at the</p> <p>9 end of the day or on breaks is to prevent</p> <p>10 contamination to the chicken, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And the wash basins, for that purpose, are</p> <p>13 in the production area, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Employees, at that point, still have on</p> <p>16 their smocks, correct?</p> <p>17 A. I can't answer that. Some do; some don't.</p> <p>18 I can't answer that.</p> <p>19 Q. They don't -- The employees at the end of</p> <p>20 the day are required to put their smocks in a bin?</p> <p>21 A. Correct.</p> <p>22 Q. The bin's outside of the production area?</p> <p>23 A. Correct.</p>                                                                                                                                               | <p>1 nets or beard net out of the production area</p> <p>2 during breaks, correct?</p> <p>3 A. They can wear their hair nets and beard nets</p> <p>4 outside the production area.</p> <p>5 Q. How long has that been the case?</p> <p>6 A. I can't answer that. As long as I can</p> <p>7 remember. They can't wear them outside, but they</p> <p>8 can wear them outside the production area.</p> <p>9 Q. Employee breaks are automatically deducted</p> <p>10 through the computer payroll system rather than</p> <p>11 through the use of a master card swipe, correct?</p> <p>12 A. The best of my knowledge. I don't know.</p> <p>13 Q. Have you ever known a master card to be used</p> <p>14 to determine breaks?</p> <p>15 A. No.</p> <p>16 Q. Have you ever known a personal time card to</p> <p>17 be used to determine breaks?</p> <p>18 A. Yeah. I have known that.</p> <p>19 Q. When?</p> <p>20 A. It's been several years ago, before I come</p> <p>21 to work here. But we used to clock in and out for</p> <p>22 breaks.</p> <p>23 Q. Which company was that?</p> |
| Page 207                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Page 209                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>1 Q. So they still have their smocks with them</p> <p>2 when they're cleaning their aprons, gloves, and</p> <p>3 sleeves?</p> <p>4 A. Yes. But they could have them off.</p> <p>5 Q. I was thinking -- I need to read the rules,</p> <p>6 and I don't have time to really, but I was</p> <p>7 thinking though the rules say you had to take your</p> <p>8 smock off after you left the production room. Am</p> <p>9 I wrong in that?</p> <p>10 A. Take the smock off before you leave the</p> <p>11 production area. At the end of the shift, they</p> <p>12 take them off as they go out the door because</p> <p>13 they're not going to wear them back in.</p> <p>14 Q. Okay. At breaks, employees are not allowed</p> <p>15 to take their aprons and smocks outside the</p> <p>16 production area, correct?</p> <p>17 A. Correct. They hang them on a rack that's</p> <p>18 supplied for them.</p> <p>19 Q. And they're not allowed to take their gloves</p> <p>20 or sleeves outside the production area either, are</p> <p>21 they?</p> <p>22 A. Correct.</p> <p>23 Q. And they're not allowed to take their hair</p> | <p>1 A. Wayne Farms.</p> <p>2 Q. But that was never a practice at CP?</p> <p>3 A. Not to the best of my knowledge.</p> <p>4 Q. And it's never been under Equity Group?</p> <p>5 A. Best of my knowledge it's hasn't been, no.</p> <p>6 Q. Equity Group is not calculating the amount</p> <p>7 of time employees actually spend on break free</p> <p>8 from any responsibilities; it's simply deducting a</p> <p>9 standard 30 minutes, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And the 30 minutes begins when the last</p> <p>12 chicken passes the last station on the line?</p> <p>13 A. No. The 30 minutes begins when it passes</p> <p>14 your station, whether you be the first or the</p> <p>15 last.</p> <p>16 Q. Is that in writing anywhere?</p> <p>17 A. Not as I know of.</p> <p>18 Q. Have you observed when employees are being</p> <p>19 sent on break?</p> <p>20 A. I've seen employees leave the line as soon</p> <p>21 as the last bird passes them, and they follow</p> <p>22 pursuit back in.</p> <p>23 Q. Now, at the time the last bird passes their</p>     |

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1 station at break, they still have on their smock,  
 2 apron, gloves, sleeves, earplugs, hair nets, beard  
 3 nets, and boots; is that right?  
 4 A. Correct.  
 5 Q. Before they can leave the production area,  
 6 they've got to doff all that?  
 7 A. No.  
 8 Q. Except for, I think you said, the hair net  
 9 and the beard net?  
 10 A. And their boots and their earplugs.  
 11 Q. Okay. But everything else they've got to  
 12 doff after the break has begun?  
 13 A. After they leave the line.  
 14 Q. So they're doffing all of that on unpaid  
 15 time, correct?  
 16 A. As far as I know. But I've never put a  
 17 stopwatch on it.  
 18 Q. Now, when an employee goes to the restroom  
 19 while the line is running, they also have to doff  
 20 everything, as you have already told us, before  
 21 they can leave the production area, correct?  
 22 A. Correct.  
 23 Q. That's considered work time and they're paid

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1 for it, correct?  
 2 A. They get paid for that.  
 3 Q. They're exerting the same amount of effort  
 4 to doff when they go to the restroom during the  
 5 production line as they are when they doff on an  
 6 unpaid break, correct?  
 7 MR. ROSENTHAL: Objection to the form  
 8 of the question. You can answer.  
 9 A. I would say so.  
 10 Q. And during the break, the employees are  
 11 required to sanitize their hands, gloves, sleeves,  
 12 aprons that they're using when they return --  
 13 before they return to the production area, or when  
 14 they return to the production area?  
 15 A. When they return to the production room.  
 16 Q. They have to do that inside the production  
 17 room at the sinks; is that right?  
 18 A. Correct.  
 19 Q. But their pay time doesn't begin until after  
 20 that, when they return to the line and the  
 21 chickens start coming again, correct?  
 22 A. No. Their 30 minutes is up when they're  
 23 called back to break. And then they walk through

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1 the door and they start getting ready to go to the  
 2 line.  
 3 Q. But an employee's break continues until he's  
 4 back on the line working?  
 5 A. Not necessarily.  
 6 Q. I don't know if you might have an exception,  
 7 but that's the standard situation, isn't it?  
 8 A. I don't know the answer to that. I've never  
 9 timed them.  
 10 Q. Well, an employee's unpaid time is from the  
 11 time he peels off the production line until the  
 12 time he's back on the production line. That's  
 13 supposed to be 30 minutes, correct?  
 14 A. He's got 30 minutes of unpaid breaks.  
 15 Q. And that 30 minutes he's required to be on  
 16 the line at the commencement of it and back on the  
 17 line at the end of it, correct?  
 18 A. Should be.  
 19 Q. And during that period he has had to doff  
 20 all of his protective equipment, resanitize it,  
 21 and redon it, correct?  
 22 A. Yeah.  
 23 Q. And all that's on unpaid time during the

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1 break?  
 2 A. Yes.  
 3 Q. But if he goes to the nurse's station or to  
 4 the quality assurance office or to the restroom or  
 5 to the supply room during the production line, he  
 6 does the exact same amount of activities, but he's  
 7 paid for that?  
 8 MR. ROSENTHAL: Objection to the form  
 9 of the question.  
 10 Q. Correct?  
 11 A. Yes.  
 12 MR. WIGGINS: Let's take a break. I'm  
 13 about done.  
 14 (A brief recess was taken.)  
 15 (BY MR. WIGGINS)  
 16 Q. Employees rotate jobs when they come back  
 17 from break too, don't they?  
 18 A. I can't answer that. I don't know.  
 19 Q. You mentioned a HACCP plan. That's a  
 20 written document, correct?  
 21 A. Correct.  
 22 Q. You said it's required to be kept out on the  
 23 floor, along with the sanitation master plan?

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## FREEDOM COURT REPORTING

| Page 214                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Page 216                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 A. No. It's required to be kept on site. Not<br/>2 on the floor, on site.<br/>3 Q. Okay. What's covered in the HACCP plan?<br/>4 A. HACCP plan is a government-regulated<br/>5 program. And I don't know really the details.<br/>6 But you have to go through the entire process and<br/>7 list critical control points, CCPs as they are<br/>8 called, and you have to follow that plan. It's a<br/>9 plan that's mandated by USDA.<br/>10 Q. Okay. Now, looking at Exhibit 17, it's got<br/>11 this P-20322 number right below the name of the<br/>12 plant. Do you see that?<br/>13 A. Yes.<br/>14 Q. What does that stand for?<br/>15 A. That's the plant number. That's the number<br/>16 that USDA issued that plant.<br/>17 Q. So USDA is treating slaughter, debone, and<br/>18 further processing as one plant?<br/>19 A. Yes.<br/>20 Q. Has that always been the case?<br/>21 A. Here, yes.<br/>22 Q. In Eufaula?<br/>23 A. Yes.</p>                                                                                                                           | <p>1 A. Talking about this entire 17?<br/>2 Q. Yes.<br/>3 A. Some of it is USDA requirements; some of it<br/>4 is our requirements.<br/>5 Q. But the items that you do to prevent<br/>6 contamination of poultry product is because that's<br/>7 a requirement of the USDA?<br/>8 MR. ROSENTHAL: Objection to the form<br/>9 of the question.<br/>10 A. The USDA, us as a company, both.<br/>11 Q. Both the company requirement and the USDA<br/>12 requirement?<br/>13 A. Could be both. Could be.<br/>14 Q. All right. Now, as I understand -- And I've<br/>15 never been in a chicken plant, so you tell me if<br/>16 I've got a bad understanding -- the line is a<br/>17 continuous production line, correct?<br/>18 A. Yes, most of them are.<br/>19 Q. It doesn't stop from when it goes from<br/>20 evisceration to debone?<br/>21 A. Yes, it stops. There's no one line that<br/>22 runs all the way through that facility.<br/>23 Q. Does the chicken on the --</p>                                 |
| Page 215                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Page 217                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>1 Q. And what's that P number used for?<br/>2 A. That's our number that USDA -- that's our<br/>3 name for USDA.<br/>4 Q. To track meat?<br/>5 A. Track meat. That's our number.<br/>6 Q. In other words, if poultry gets out in the<br/>7 market and something's wrong with it, they can<br/>8 track it back to you; is that the purpose?<br/>9 A. Yes. That number is on our labels of our<br/>10 product.<br/>11 Q. Okay. And when I asked you the various<br/>12 questions about whether the activities listed in<br/>13 Exhibit 17, such as the donning, doffing, and the<br/>14 sanitizing activities were for the purpose of<br/>15 preventing contamination of chicken, that's a<br/>16 requirement of the USDA, correct?<br/>17 MR. ROSENTHAL: Objection to the form<br/>18 of the question. It's not a summary of what the<br/>19 witness said. But you can answer.<br/>20 A. I don't remember what's in 17 at this point.<br/>21 But, you know, the USDA does have regulations.<br/>22 Q. That's 17, the one we went over for a good<br/>23 bit after lunch.</p> | <p>1 A. The production flow starts here and goes to<br/>2 here, but there's not no one line.<br/>3 Q. Okay. But for any one line, the flow<br/>4 doesn't stop when it moves from evisceration to<br/>5 debone, does it?<br/>6 A. No.<br/>7 Q. So you really couldn't stop for three to<br/>8 five minutes in debone without stopping for three<br/>9 to five minutes in evisceration, could you?<br/>10 A. Yes.<br/>11 Q. How would you do that?<br/>12 A. Combo the birds off. We've got a system<br/>13 that will hold birds.<br/>14 Q. What do you mean by "combo the birds off"?<br/>15 A. Put them into a container.<br/>16 Q. Is that done every shift?<br/>17 A. Yeah. Do it every day to some degree. Some<br/>18 days worse than others.<br/>19 Q. Are there days when you don't do that?<br/>20 A. If there is additional space on tables and<br/>21 areas that we have for birds to stay, yes, we can<br/>22 do that. We can stop for three minutes and not<br/>23 shut down the entire plant.</p> |

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1 Q. Now, in that three to five minutes, you said  
 2 that the employees are being paid on the evening  
 3 shift, even though there's no birds coming down  
 4 the line?  
 5 A. Evening or day shift, whichever it falls in.  
 6 It could be half on each. I don't know the answer  
 7 to that. But they are being paid because it's  
 8 within their time frame at work.  
 9 Q. So they're being paid -- Either or both of  
 10 the day shift and evening shift are being paid for  
 11 the three to five minutes that there is no  
 12 chickens on the line?  
 13 A. Correct.  
 14 Q. And that three to five minutes is obviously  
 15 not line time because there are no chickens on the  
 16 line, correct?  
 17 A. Correct.  
 18 Q. And that's handled in the same way you  
 19 handle the three minutes for donning and doffing?  
 20 A. No.  
 21 Q. You said you pay them three minutes?  
 22 A. We pay them three minutes.  
 23 Q. And the same thing on the three to five

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1 minutes on the shift changeover; you simply pay it  
 2 even though it's not line time, correct?  
 3 A. Correct. But the three minutes on donning  
 4 and doffing that we now pay is just added to their  
 5 normal ever how many hours they work that week.  
 6 Q. And they normally work eight hours, correct?  
 7 A. On day shift.  
 8 Q. So they are now been paid eight hours and  
 9 three minutes?  
 10 A. If they work an eight-hour shift that day,  
 11 they're getting paid eight hours and three  
 12 minutes, whatever the contract says.  
 13 Q. And that's simply programmed into the  
 14 computer payroll system?  
 15 A. Correct.  
 16 Q. And that three minutes is not paid by any  
 17 master card swipe time?  
 18 A. It's on their check as D&D or donning and  
 19 doffing or some way. It's set up where it pays  
 20 that. It's shown it on the bottom of their check.  
 21 Q. Now, that three to five minutes in the  
 22 debone department between day shift and evening  
 23 shift, that's not on master card time either?

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1 A. Yes, it is.  
 2 Q. As I understand it, the evening shift swipes  
 3 and then -- I'm sorry. Let me start over.  
 4 The day shift swipes three to five minutes  
 5 different than the evening shift swipes on the  
 6 master card?  
 7 A. I don't know. I don't know the answer to  
 8 that. I wouldn't think so. Our normal ending  
 9 time is at 4:30 on day shift; our normal start  
 10 time is at 4:30 on evening shift.  
 11 Q. Is there any other time of day that you  
 12 combo the birds off the line?  
 13 A. Sure. Any time we have a breakdown we have  
 14 to combo them.  
 15 Q. And combo-ing the birds off means that you  
 16 take the birds off the moving line, put them in  
 17 some storage container, keep them there for three  
 18 to five minutes, and then put them back on the  
 19 line, right?  
 20 MR. ROSENTHAL: Objection. You're  
 21 talking about the three to five minutes between  
 22 the shifts or at any time?  
 23 MR. WIGGINS: Between the shifts.

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1 A. We put them back on the line whenever we can  
 2 work them back in.  
 3 Q. But that's extra work that you're having to  
 4 do that you wouldn't have to do if you left them  
 5 on a continuous line, correct?  
 6 A. Correct.  
 7 Q. And who's responsible for that extra work?  
 8 A. The debone employees, or wherever it's at,  
 9 whatever department it's in any time we have a  
 10 mechanical breakdown. So it could be evis.  
 11 Q. Have you ever known any item to be  
 12 negotiated in the collective bargaining process  
 13 without having a written proposal from the union  
 14 or the company on that topic?  
 15 A. I don't recall. Not that I'm aware of. I  
 16 don't recall.  
 17 Q. Did the four people that signed the 2008  
 18 collective bargaining agreement have the authority  
 19 to agree to that three minutes to be paid for  
 20 donning and doffing by themselves, without getting  
 21 any higher approval?  
 22 A. I don't know the answer to that. Because  
 23 when the final decision was made, Huntsville was

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1 made aware of what we had come up with, and then  
 2 decided on it.  
 3 Q. Had other Equity Group plants put in three  
 4 minutes for donning and doffing?  
 5 A. I don't know.  
 6 Q. Do you know who had the final authority to  
 7 agree to that three minutes?  
 8 A. No. The four that signed the contract, I  
 9 guess, with leadership from our attorney and our  
 10 Huntsville group involved in it.  
 11 Q. Who in the Huntsville group?  
 12 A. I don't know the answer to that.  
 13 Q. Do you still have your copy of Exhibit 17  
 14 there?  
 15 A. Here it is.  
 16 Q. Turn to page 6.  
 17 A. (Witness complies.)  
 18 Q. Do you see at the top of the page, the end  
 19 of No. 3, it refers to Section 7.1, 7.2 of Codex  
 20 Alimentarius?  
 21 A. Yeah, I see it.  
 22 Q. What is that?  
 23 A. I have no idea. I don't know.

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1 Q. Turn over to page 11.  
 2 A. (Witness complies.)  
 3 Q. No. 18. It refers to a quality assurance  
 4 hold. What is that?  
 5 A. If for any reason product doesn't meet spec,  
 6 QA puts the product on hold and applies a QA hold  
 7 tag that states "QA Hold."  
 8 Q. If you had employees on the line who had not  
 9 sanitized their hands, gloves, sleeves, or apron,  
 10 would it be subject to a quality assurance hold?  
 11 A. I've never been made aware that anything's  
 12 been put on QA hold for not washing their hands.  
 13 Q. First of all, are you knowledgeable of the  
 14 reasons for quality assurance holds?  
 15 A. Some of them, not all of them.  
 16 Q. What type of sanitation matters would cause  
 17 a quality assurance hold?  
 18 A. If the plant's not clean.  
 19 Q. What about the employees? What if they're  
 20 not meeting sanitation requirements?  
 21 A. I've never known of anything being put on  
 22 hold that the employee was dirty.  
 23 If the employee drops product on the floor

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1 and picks it up and puts it into a clean edible  
 2 tote, it's put on hold.  
 3 Q. If an employee drops product on the floor  
 4 and touches it and doesn't resanitize his hands,  
 5 is it put on hold?  
 6 A. Yes, can be.  
 7 Q. And then it refers in the same paragraph to  
 8 a USDA hold. What type of sanitation infraction  
 9 would cause a USDA hold?  
 10 A. Same thing, if they catch you before QA  
 11 does.  
 12 Q. You have USDA employees inspecting on every  
 13 part of the production process?  
 14 A. Yes.  
 15 Q. How many USDA employees do you have in your  
 16 fresh plant?  
 17 A. A minimum of 11 per shift.  
 18 Q. And do you have them in there during the  
 19 sanitation shift also?  
 20 A. No.  
 21 Q. That's just your two operating shifts?  
 22 A. Two operating shifts.  
 23 Q. Do you have USDA in during the sanitation

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1 shift?  
 2 A. Part of it.  
 3 Q. Which part?  
 4 A. At the ending of the cleanup.  
 5 Q. Do you keep records of your quality  
 6 assurance holds?  
 7 A. I don't; QA does.  
 8 Q. Do you know how long you keep those?  
 9 A. No.  
 10 Q. What about your USDA holds? Do you keep  
 11 those for any period of time?  
 12 A. No, I don't; USDA does.  
 13 Q. I mean, does the company?  
 14 A. If it does, QA keeps them. I'm not aware of  
 15 it. They may.  
 16 Q. Top of page 12, it refers to posting a "Wash  
 17 Hands before Returning to Work" sign. Has that  
 18 been done?  
 19 A. I don't know the answer to that.  
 20 Q. It says that's supposed to be in the  
 21 restrooms, correct?  
 22 A. That's what it says.  
 23 Q. Employees are required to wash and sanitize

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1 their hands before leaving the restroom, correct?  
 2 A. Correct.  
 3 Q. They then can go either to the break room,  
 4 supply room, or outside, correct?  
 5 A. Repeat your question.  
 6 Q. After they have washed their hands in the  
 7 restroom, if they're still on break they can go on  
 8 outside, or to the supply room, or to the break  
 9 room, or anywhere they want to go, correct?  
 10 A. Correct.  
 11 Q. But when they enter the production area  
 12 again, they have to resanitize their hands a  
 13 second time, correct?  
 14 A. Have to rewash their hands, correct.  
 15 Q. And that's true on any type of leaving the  
 16 work area, whether it's on production line time or  
 17 on break time, correct?  
 18 A. Correct.  
 19 Q. Employees are not allowed to stay in the  
 20 production area during breaks, are they?  
 21 A. Yeah, they can. I mean, some do; some  
 22 don't. Very few do. But they can stay in there.  
 23 That's their choice.

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1 Q. But you've already told us there's no food  
 2 or drink allowed.  
 3 A. Correct.  
 4 Q. And there's no bathrooms in there?  
 5 A. No bathrooms.  
 6 Q. Okay. Thank you.  
 7 MR. ROSENTHAL: I don't have any  
 8 questions for you.  
 9 MR. WIGGINS: Howard, we want, in  
 10 addition to the sanitation manual we asked for, we  
 11 think that the SOPs of sanitation, boots, all  
 12 these SOPs that deal with donning, doffing,  
 13 sanitation, that type of thing are due to be  
 14 produced.  
 15 We'd like to have an updated layout of the  
 16 plant now that it's been revised, if you've got  
 17 one. And we'd like to have HACCP plan. Anything  
 18 else?  
 19 MS. MCGOWAN: When we were having our  
 20 conversation, I kept saying, "Do we have this in  
 21 an electronic version?" And y'all kept saying,  
 22 "We've produced everything."  
 23 MR. ROSENTHAL: No, no.

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1 MS. MCGOWAN: Well, for some reason we  
 2 had a communication problem. So just so we're  
 3 clear, so there's no communication problem, we  
 4 want the Kronos information on electronic disk,  
 5 because you keep it, don't you?  
 6 MR. ROSENTHAL: We don't have one. The  
 7 Kronos information is in hard copy, and it's  
 8 available for you to review.  
 9 MS. MCGOWAN: What are you using now?  
 10 MR. ROSENTHAL: I've got the hard  
 11 copies.  
 12 MS. MCGOWAN: I know. But do you use  
 13 Kronos now?  
 14 MR. ROSENTHAL: They're not something  
 15 which we can convert. It's a specialized program.  
 16 We have the hard copies. It's the only thing that  
 17 I'm aware of that I can give you, and we've made  
 18 them available since September. And that's what  
 19 we told you. We read right from the response.  
 20 MS. MCGOWAN: Well, we can agree to  
 21 disagree what I understand and what you  
 22 understood, but --  
 23 MR. ROSENTHAL: And those documents

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1 are --  
 2 MS. MCGOWAN: You printed it off. Do  
 3 they print it every day and dump it, or why is it  
 4 not available electronically?  
 5 MR. ROSENTHAL: I can't answer that  
 6 question, Candis. I can tell you what we have  
 7 available and what we've offered to make  
 8 available. It's the same thing we've offered  
 9 since September.  
 10 I can't today find out what else will be  
 11 available when the first time we got a request was  
 12 today.  
 13 MS. MCGOWAN: No, no.  
 14 MR. ROSENTHAL: That's the first  
 15 request we had. We were not asked for an  
 16 electronic copy from the time we responded to  
 17 discovery last September. You asked about it last  
 18 Friday, and I told you what the answer was.  
 19 MR. WIGGINS: Let me see if I  
 20 understand you, Howard. Y'all have it on  
 21 electronic form, but you say it's a problem  
 22 converting it?  
 23 MR. ROSENTHAL: I don't know that we

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1 have it for every employee going back as far as  
2 March of 2004. And all I'm saying is I will have  
3 some time after this week to determine what's  
4 available and what we can make available and how  
5 we can make it available.

6 MR. WIGGINS: Well, I hope it doesn't  
7 come to this, but once we get these SOPs and these  
8 other things I've listed, it could trigger some  
9 questions of this witness.

10 MR. ROSENTHAL: Our position is very  
11 simple: We produced responses to discovery in  
12 September. The first time we were asked to  
13 present witnesses was when we received the Notice  
14 of Deposition. We objected to the Request For  
15 Production; that's been ruled on.

16 So I'm not suggesting that you have a right  
17 to bring anyone back.

18 MR. WIGGINS: Yeah, I understand you're  
19 not. And I'm not taking a position on it until I  
20 see the documents. But I do want to be clear  
21 though that the documents that I've asked for --  
22 and I don't know much about the Kronos thing --  
23 but the documents I'd asked for I think were due

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1 need for further questions. Hopefully, it won't.  
2 MR. ROSENTHAL: Okay.

3  
4 (The deposition was concluded  
5 at 4:30 p.m.)  
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1 under the original document production.

2 MR. ROSENTHAL: I disagree with that.  
3 And at the close of this deposition, our position  
4 is that you're done with this witness. I  
5 understand you can take a different position.

6 As I said to Candis last week, we'll take  
7 all requests under advisement and get the  
8 documents to you to the extent that we can. It  
9 won't happen this week.

10 MR. WIGGINS: I understand. And it may  
11 be Much Ado About Nothing when we see them.

12 MR. ROSENTHAL: Even to the extent we  
13 can locate them, I'm going to assume that whatever  
14 you told the court reporter is the extent of what  
15 you're asking for, and we'll see what we can do.

16 For example, I don't know that there's any  
17 layout of the plant as it is currently; we'll  
18 certainly look for that.

19 MR. WIGGINS: Well, the ones I listed  
20 were just ones that showed up today. There may be  
21 some that will show up with the next witness, I  
22 don't know. But we can worry about that later. I  
23 just wanted to tell you that it could trigger the

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## 1 CERTIFICATE

2  
3 STATE OF ALABAMA  
4 BARBOUR COUNTY  
5

6 I hereby certify that the above and  
7 foregoing deposition was taken down by me in  
8 stenotype and the questions and answers thereto  
9 were transcribed by means of computer-aided  
10 transcription, and that the foregoing represents  
11 a true and correct transcript of the testimony  
12 given by said witness upon said hearing.

13 I further certify that I am neither of  
14 counsel, nor kin to the parties to the action,  
15 nor am I in anywise interested in the result of  
16 said cause.  
17  
18

19 CYNTHIA M. NOAKES, Commissioner  
20 Certified Court Reporter,  
21 ACCR #327 - Expires 09/30/2008  
22

23 Commission Expires 07/08/2009

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